



THE SUPREME COURT OF MINNESOTA

BOARD OF LAW EXAMINERS
BOARD OF CONTINUING LEGAL EDUCATION
BOARD OF LEGAL CERTIFICATION

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St. Paul, Minnesota 55107 • (612) 297-1800

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APR 4 1988

FILED

M E M O R A N D U M

TO: MINNESOTA SUPREME COURT CLERK OF APPELLATE
COURTS

FROM: Margaret Fuller Corneille, Director

DATE: March 31, 1988

RE: PROPOSED RULE CHANGES

Please file the enclosed proposed Rules changes which
have been set for formal hearing before the Supreme
Court on May 12, 1988, at 3:00 P.M.

MFC:vas

Enclosure

APR 4 1988

FILED

RULES OF
THE SUPREME COURT
AND OF
THE STATE BOARD OF LAW EXAMINERS
FOR ADMISSION TO THE BAR

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Rule I. State Board of Law Examiners

- A. **Composition.** The State Board of Law Examiners shall consist of nine members, two of whom shall be public members, each appointed by the Supreme Court for a term of three years or until a successor is appointed and qualifies. The terms of office may be staggered by the Court by any method it deems appropriate. ~~From among its members the Board~~ The Court shall select a president and a secretary and the Board shall select a secretary from among its members. (Amended October 26, 1979.)
- B. **Authority.** The Board is authorized:
- (1) Subject to the approval of the Court, to employ a Director on a full-time or part-time bases, to prescribe duties, and to fix compensation;
 - (2) To secure examination questions and other testing devices which the Board finds valid in measuring fitness of applicants to practice law, and to pay reasonable compensation for them;
 - (3) To employ readers to grade the answers to examinations;
 - (4) To fix the minimum satisfactory grade for success on examinations;
 - (5) To conduct or cause to be conducted investigations of applicant background as may be reasonably related to fitness to practice or eligibility under the rules, and to require applicants to pay the costs of the investigations;
 - (6) To grant waivers of strict compliance with these Rules in cases of hardship or other compelling reasons;
 - (6) (7) To administer these rules and make rules not inconsistent with Rules of the Court. (Former Rule VII renumbered September, 1986)

Rule II. General Requirements for Admission

A. Eligibility for Admission. An applicant is eligible for admission to practice law upon establishing to the satisfaction of the Board:

- (1) age of at least 18 years;
- (2) good character and fitness;
- (3) graduation with J.D. or LL.B. degree from an a approved law school ~~with J.D. or LL.B. degree~~ which is provisionally or fully approved by the American Bar Association;
- (4) passing score on a written examination or qualification under Rule IV;
- (5) passing score on an examination on the ethical standards and professional responsibility of lawyers ~~as defined in Board Rule 100D.~~

B. Residency. Prior to admission an applicant must be a resident of this state or maintain an office in this state or designate the Clerk of the Appellate Courts as agent for the service of process for all purposes.

Rule III. Admission by Examination

- A. **Application.** An applicant for admission by examination shall file a timely application in the office of the Director accompanied by the information listed in the Rules of the Board and the proper fee.
- B. **Scope of Exam.** Applicants for admission by examination shall be tested on any combination of the following subjects:

~~Expires after February 1988:~~

~~Administrative Law
Civil Procedure
Constitutional Law
Contracts
Criminal Law and Procedure
Evidence
Federal Individual Income Taxation
Negotiable Instruments
Private Corporations
Real Property
Remedies
Sales
Torts
Wills, Estates and Trusts~~

Effective for July 1988 and thereafter:

Administrative Law
Civil Procedure
Constitutional Law
Contracts
Criminal Law and Procedure
Ethics and Professional Responsibility
Evidence
Federal Individual Income Taxation
Partnership, Proprietorship, and Corporations
Real Property
Torts
Uniform Commercial Code, Art. 1,2,9
Wills, Estates and Trusts

Rule IV. Admission Without Examination

- A. **Eligibility by Practice.** An applicant may be eligible for admission without examination if the applicant meets the requirements of Rule II, has been licensed to practice in the highest court of another jurisdiction, and as principal occupation has been actively and lawfully engaged in the practice of law in that jurisdiction or pursuant to that license for at least five of the seven years immediately next preceding the application. Practice of law may include:
- (1) Legal service as a sole practitioner or as a member of a law firm, professional corporation or association;
 - (2) Judicial service in a court of record or other legal service with any local or state government or with the federal government including services as a member of the Judge Advocate General's Department of one of the ~~M~~military ~~B~~branches of the United States;
 - (3) Legal service as inside counsel for a corporation, agency, association or trust department;
 - (4) Teaching full-time in any approved law school.
- B. **Eligibility by Test Score.** An applicant may be eligible for admission without examination under Rule IIA(4) if the applicant meets the requirements of Rule II, has received a scaled score of 145 or above on the Multistate Bar Examination taken as a part of and at the same time as the essay or other part of a written bar examination given by another jurisdiction, was successful on that bar examination and subsequently admitted in that jurisdiction. Evidence of the score and a completed application must be received at the office of the Board within two years of the date of the examination that is being used as a basis for the admission.
- C. **Eligibility After Unsuccessful Examination.** An applicant who has been unsuccessful on the Minnesota Bar Examination may be eligible for admission without examination if the provisions of paragraph A or paragraph B above have been undertaken and fulfilled subsequent to the failure on the Minnesota Bar Examination.
- D. **Application.** An applicant for admission without examination shall file an application in the office of the Director accompanied by the information listed in the Rules of the Board and the proper fee.

Add to Rule IV.

E. Any person who engages in the practice of law without first obtaining a license as set forth in these Rules is ineligible for admission without examination.

Rule VI. Temporary License for In-House Counsel.

- A. Eligibility. An attorney licensed in another state or the District of Columbia may apply for and obtain a temporary license to practice law in Minnesota when the applicant is employed in Minnesota as an attorney solely for a single corporation (or its subsidiaries), association, business or governmental entity whose lawful business consists of activities other than the practice of law or the provision of legal services.
- B. Requirements. In order to qualify for the license, the attorney must file with the Board of Law Examiners the following:
- (1) A completed Application for Temporary License to Practice Law in Minnesota;
 - (2) A certificate of the highest court of the state of licensure certifying that the attorney is in good standing and that no charges of professional misconduct are pending;
 - (3) An affidavit from an office, director or general counsel of applicant's employer or parent company employer attesting to the fact that applicant is employed as an attorney solely for said employer, that applicant is an individual of good character, and that the nature of the employment meets the requirements of section A of this Rule.
 - (4) An affidavit of applicant attesting to applicant's full time practice of law for at least five of the previous seven years;
 - (5) A fee consistent with Rule 105.
- C. Limitation. A license granted pursuant to this Rule shall authorize the attorney to practice solely for the designated employer.
- D. Duration. This Temporary License shall be valid for a period of no more than twelve months from the date of issuance and shall terminate at any time upon the occurrence of any of the following:
- (1) the holder's admission to practice law in Minnesota pursuant to Rule III, Rule IV.A. or Rule IV.B.;
 - (2) termination of holder's employment with the employer referenced in Rule VI.B.

Rule VI. Temporary License for In-House Counsel (continued)

E. Revocation. If upon investigation, the Board of Law Examiners determines that the holder of a temporary license issued pursuant to this rule does not or may not qualify for admission, the Board will make a recommendation to the Supreme Court that such license be revoked.

Rule WV VII. Information Disclosure

- A. **Application File.** An applicant may review the contents of his or her application file with the exception of the work product of the Board and its staff up to two years after the filing of the last application for admission in Minnesota, at such times and under such conditions as the Board may provide.
- B. **Examination Information.** Examination information shall be available as provided in Rules of the Board.
- C. **Release to Other Agencies.** Information may be exchanged with an authorized lawyer disciplinary agency, and released to bar admissions authorities in jurisdictions where an application is pending.
- D. **Investigation.** Application information may be released to agencies authorized by the Board to investigate applicant fitness and eligibility.
- E. **Referrals.** Information relating to the misconduct of an applicant may be referred to the appropriate authority.
- F. **Confidentiality.** All other information contained in the files of the office of the Board is confidential and will not be released to anyone other than the Court except upon order of the Court.
- G. **Costs.** The Board may charge reasonable fees for collection and providing of any information permitted to be released.

Rule ~~VHF~~: VIII. Appeal to the Supreme Court

A. (1) Any applicant who is adversely affected by a final decision of the Board, or by the provisions of any of these Rules or the Rules of the Board, may appeal to the Court by serving upon and filing a petition for review with the Director and in the office of the Clerk of the Appellate Courts within 20 days of receipt by the applicant of a final decision of the Board, or adverse effect of the provisions of any of these Rules or Rules of the Board. An appeal to the Court shall follow Rules of the Lawyer's Professional Responsibility Board. The petition shall briefly state the facts that form the basis for the complaint, and the applicant's reasons for believing the Court should review the decision.

(2) A copy of said petition shall be promptly served upon the Director who shall transmit within 20 days a response to the petition fully advising the Court as to the reasons for the Board's decision. Thereupon the Court shall make such order, hold such hearings and give such directions as it may in its discretion deem appropriate.

B. After denial of petition by the Court or expiration of the time allowed in paragraph A, an applicant determined not to have satisfied Rule IIA(2) may not reapply for admission to practice in Minnesota for three years following the Board's determination.

Rule 100. Application for Admission

A. **Complete Application.** A person desiring admission to practice law in Minnesota shall submit a typewritten notarized application on a form prescribed by the Board. To be accepted the application must be timely presented at the office of the Director and be accompanied by:

- (1) The proper fee as indicated in Rule 105;
- (2) Notarized Affidavits of two persons unrelated to the applicant by blood or marriage and not fellow law students during applicant's enrollment, who have known the applicant for at least one year, setting forth the duration of time and 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 applicant's fitness to practice law;
- (3) Two independently executed and notarized authorizations for release, which are included with the application form.
- (4) A photo I.D. card showing a full face front view of the applicant in which facial features are clear and distinguishable.

PROPOSED CHANGE TO HEADING OF RULE 100D

- D. ~~Certification of Test Scores:~~ Professional Responsibility Test Scores. It is the responsibility of the applicant to provide evidence of satisfaction of Court Rule IIA(5) by submitting a report of a scaled score of 85 or higher on the Multistate Professional Responsibility Examination.

Rule 101. Bar Examination.

A. Dates of Examination. Examinations shall be held the last Tuesday and Wednesday of the months of February and July each year, at a place determined by the Board.

B. Timely Filing Deadlines. An application for admission by examination shall be filed in the office of the Director by ~~January~~ October 15 for the February examination, or by ~~June~~ March 15 for the July examination. To be accepted the application must comply with Rule 100- and Rule 105.

C. Late Filing Deadlines. Late applications will be accepted on or before December 15 for the February examination, or on or before May 15 for the July examination but must be accompanied by a late filing fee pursuant to Rule 105. No application shall be accepted after the late filing deadline.

~~D.~~ D. Denial of Opportunity to Test. An applicant may be denied permission to take an examination for any of the following reasons:

- (1) Failure to file information in a complete and timely fashion as required by the Board or the Director;
- (2) Failure to cooperate in the background investigation to determine fitness;
- (3) Failure to comply with Rule 100;
- (4) The Board has determined the applicant has not satisfied Court Rule IIA(2);
- (5) Failing to submit, after three examinations, an acceptable study plan to the Director prior to filing an application.

~~D.~~ E. Examination Results. The results of the examination shall be released to examinees by regular mail to the address listed in the files of the Board, and posted by examination number at the Court and at each Minnesota law school. The date of the release shall be announced at the examination.

~~E.~~ F. Testing Accommodations. An applicant for admission by examination who requires special testing accommodations must submit a written request to the Board. The Board will consider timely requests and advise the applicant of its decision. The following guidelines apply:

- (1) The request must be received in the office of the Director at the time the application is filed;
- (2) The request must state the accommodation requested, submitting samples, identifying brands, or describing the circumstances in sufficient detail for the Board to evaluate the test environment and to suggest alternatives, if appropriate;

Rule 101 (continued)

- (3) A claim of medical reasons for an accommodation must be accompanied by a statement from an attending physician (a) setting forth the nature of the disability that requires an accommodation, and (b) attesting that the specific accommodation requested will provide a degree of relief for the disability suffered;
- (4) A request to typewrite essay responses shall identify by model number and brand the typewriter that will be used. Memory typewriters may not be used;
- (5) The applicant may be charged a reasonable fee for expenses incurred in providing the accommodation. The fee may include rental of equipment or space, hiring of examination monitors or applicant assistants, and costs of special testing forms, translation and transcription services.

Rule 103. Investigations

- C. ~~Additional-Reports-~~ Additional Information. The Board may require an applicant to obtain reports or other information as necessary for the Board to properly evaluate the applicant's fitness to practice, and may require the applicant to bear the expense of ~~the-Board~~ obtaining ~~the~~ that data. (Former Rule X, amended and renumbered September, 1986.)

Rule 104. Hearings

- F. **Action on Appeal.** If the applicant appeals the determination of the Board under Court Rule VFFVIII, the Board shall file with the Clerk of the Appellate Courts the findings, conclusions of law and determination of the Board. ~~An appeal to the Court shall follow Rules of the Lawyers' Professional Responsibility Board.~~

Rule 105. Fees

A. **General.** All fees required under these rules shall be paid in the form of certified check, money order or bank draft and payable to the Board. The fee applicable is determined as of the date of filing of a complete application under Rule 100.

B. **Fee for Examination, Not Previously Admitted.** An applicant taking the examination for the first time and making timely filing on or before ~~November~~ October 15 for the February examination, or on or before April ~~March~~ 15 for July examination, shall submit a fee of \$200.

An application for the examination submitted after the timely filing date but on or before ~~January~~ December 15 for the February examination, or on or before June-1 ~~May~~ 15 for the July examination, shall include a fee of \$350.

C. **Fee for Examination, Prior Admission.** An applicant licensed to practice in another jurisdiction more than six months preceding the date of the Minnesota examination and making a timely filing shall submit a fee of \$500.

An application for examination submitted after the timely filing date but on or before ~~January~~ December 15 for the February examination, or on or before June-1 ~~May~~ 15 for the July examination, shall include a fee of \$650.

An applicant licensed to practice in another jurisdiction less than six months preceding the date of the Minnesota examination shall comply with paragraph B.

D. **Repeat Examinations.** An applicant who has previously been unsuccessful on the examination and filing on or before ~~January~~ December 15 for the February examination, or ~~June-1~~ on or before May 15 for the July examination, shall include a fee of \$200 and comply with Rule 100E and Rule 101C(5).

E. **Fee for Admission Without Examination.** An applicant for admission without examination shall submit a fee of \$500. An applicant for admission pursuant to Rule VI shall submit a fee of \$700.

Table of Head Notes, change

VI. ~~Information-Disclosure~~ Temporary License for In-House Counsel

VII. ~~Appeal-to-the-Court~~ Information Disclosure

VIII. Appeal to the Court

Rule I. State Board of Law Examiners

- A. Composition. The State Board of Law Examiners shall consist of nine members, two of whom shall be public members, each appointed by the Supreme Court for a term of three years or until a successor is appointed and qualifies. The terms of office may be staggered by the Court by any method it deems appropriate. ~~From among its members the Board~~ The Court shall select a president and a secretary and the Board shall select a secretary from among its members.

PROPOSED RULE CHANGES

Rule II. General Requirements for Admission

A. Eligibility for Admission. An applicant is eligible for admission to practice law upon establishing to the satisfaction of the Board:

- (1) age of at least 18 years;
- (2) good character and fitness;
- (3) graduation from an approved law school with J.D. or LL.B. degree;
- (4) passing score on a written examination or qualification under Rule IV;
- (5) passing score on an examination on the ethical standards and professional responsibility of lawyers, as defined in Board Rule 100D.

Rule III. Admission by Examination

- A. Application. An applicant for admission by examination shall file a timely application in the office of the Director accompanied by the information listed in the Rules of the Board and the proper fee.
- B. Scope of Exam. Applicants for admission by examination shall be tested on any combination of the following subjects:

Expires after February 1988:

~~Administrative Law~~
~~Civil Procedure~~
~~Constitutional Law~~
~~Contracts~~
~~Criminal Law and Procedure~~
~~Evidence~~
~~Federal Individual Income Taxation~~
~~Negotiable Instruments~~
~~Private Corporations~~
~~Real Property~~
~~Remedies~~
~~Sales~~
~~Torts~~
~~Wills, Estates and Trusts~~

Effective for July 1988 and thereafter:

Administrative Law
Civil Procedure
Constitutional Law
Contracts
Criminal Law and Procedure
Ethics and Professional Responsibility
Evidence
Federal Individual Income Taxation
Partnership, Proprietorship, and Corporations
Real Property
Torts
Uniform Commercial Code, Art. 1,2,9
Wills, Estates and Trusts

Rule IV. Admission Without Examination

- A. Eligibility by Practice. An applicant may be eligible for admission without examination if the applicant meets the requirements of Rule II, has been licensed to practice in the highest court of another jurisdiction, and as principal occupation has been actively and lawfully engaged in the practice of law in that jurisdiction or pursuant to that license for at least five of the seven years immediately next preceding the application. Practice of law may include:
- (1) Legal service as a sole practitioner or as a member of a law firm, professional corporation or association;
 - (2) Judicial service in a court of record or other legal service with any local or state government or with the federal government including services as a member of the Judge Advocate General's Department of one of the Mmilitary Bbranches of the United States;
 - (3) Legal service as inside counsel for a corporation, agency, association or trust department;
 - (4) Teaching full-time in any approved law school.
- B. Eligibility by Test Score. An applicant may be eligible for admission without examination under Rule IIA(4) if the applicant meets the requirements of Rule II, has received a scaled score of 145 or above on the Multistate Bar Examination taken as a part of and at the same time as the essay or other part of a written bar examination given by another jurisdiction, was successful on that bar examination and subsequently admitted in that jurisdiction. Evidence of the score and a completed application must be received at the office of the Board within two years of the date of the examination that is being used as a basis for the admission.
- C. Eligibility After Unsuccessful Examination. An applicant who has been unsuccessful on the Minnesota Bar Examination may be eligible for admission without examination if the provisions of paragraph A or paragraph B above have been undertaken and fulfilled subsequent to the failure on the Minnesota Bar Examination.
- D. Application. An applicant for admission without examination shall file an application in the office of the Director accompanied by the information listed in the Rules of the Board and the proper fee.

Add to Rule IV.

E. Any person who engages in the practice of law without first obtaining a license as set forth in these Rules is ineligible for admission without examination.

Rule VI. Temporary License for In-House Counsel.

- A. Eligibility. An attorney licensed in another state or the District of Columbia may apply for and obtain a temporary license to practice law in Minnesota when the applicant is employed in Minnesota as an attorney solely for a single corporation (or its subsidiaries), association, business or governmental entity whose lawful business consists of activities other than the practice of law or the provision of legal services.
- B. Requirements. In order to qualify for the license, the attorney must file with the Board of Law Examiners the following:
- (1) A completed Application for Temporary License to Practice Law in Minnesota;
 - (2) A certificate of the highest court of the state of licensure certifying that the attorney is in good standing and that no charges of professional misconduct are pending;
 - (3) An affidavit from an office, director or general counsel of applicant's employer or parent company employer attesting to the fact that applicant is employed as an attorney solely for said employer, that applicant is an individual of good character, and that the nature of the employment meets the requirements of section A of this Rule.
 - (4) An affidavit of applicant attesting to applicant's full time practice of law for at least five of the previous seven years;
 - (5) A fee consistent with Rule 105.
- C. Limitation. A license granted pursuant to this Rule shall authorize the attorney to practice solely for the designated employer.
- D. Duration. This Temporary License shall be valid for a period of no more than twelve months from the date of issuance and shall terminate at any time upon the occurrence of any of the following:
- (1) the holder's admission to practice law in Minnesota pursuant to Rule III, Rule IV.A. or Rule IV.B.;
 - (2) termination of holder's employment with the employer referenced in Rule VI.B.

E. Revocation. If upon investigation, the Board of Law Examiners determines that the holder of a temporary license issued pursuant to this rule does not or may not qualify for admission, the Board will make a recommendation to the Supreme Court that such license be revoked.

Rule VFVII. Information Disclosure

- A. Application File. An applicant may review the contents of his or her application file with the exception of the work product of the Board and its staff up to two years after the filing of the last application for admission in Minnesota, at such times and under such conditions as the Board may provide.
- B. Examination Information. Examination information shall be available as provided in Rules of the Board.
- C. Release to Other Agencies. Information may be exchanged with an authorized lawyer disciplinary agency, and released to bar admissions authorities in jurisdictions where an application is pending.
- D. Investigation. Application information may be released to agencies authorized by the Board to investigate applicant fitness and eligibility.
- E. Referrals. Information relating to the misconduct of an applicant may be referred to the appropriate authority.
- F. Confidentiality. All other information contained in the files of the office of the Board is confidential and will not be released to anyone other than the Court except upon order of the Court.
- G. Costs. The Board may charge reasonable fees for collection and providing of any information permitted to be released.

Rule VII. VIII. Appeal to the Supreme Court

A. ~~(1) Any applicant who is adversely affected by a final decision of the Board, or by the provisions of any of these Rules or the Rules of the Board, may appeal to the Court by serving upon and filing a petition for review with the Director and in the office of the Clerk of the Appellate Courts within 20 days of receipt by the applicant of a final decision of the Board, or adverse effect of the provisions of any of these Rules or Rules of the Board. An appeal to the Court shall follow Rules of the Lawyer's Professional Responsibility Board.~~ The petition shall briefly state the facts that form the basis for the complaint, and the applicant's reasons for believing the Court should review the decision.

(2) A copy of said petition shall be promptly served upon the Director who shall transmit within 20 days a response to the petition fully advising the Court as to the reasons for the Board's decision. Thereupon the Court shall make such order, hold such hearings and give such directions as it may in its discretion deem appropriate.

B. After denial of petition by the Court or expiration of the time allowed in paragraph A, an applicant determined not to have satisfied Rule IIA(2) may not reapply for admission to practice in Minnesota for three years following the Board's determination.

Rule 100. Application for Admission

- A. Complete Application. A person desiring admission to practice law in Minnesota shall submit a typewritten notarized application on a form prescribed by the Board. To be accepted the application must be timely presented at the office of the Director and be accompanied by:
- (1) The proper fee as indicated in Rule 105;
 - (2) Notarized Affidavits of two persons unrelated to the applicant by blood or marriage and not fellow law students during applicant's enrollment, who have known the applicant for at least one year, setting forth the duration of time and 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 applicant's fitness to practice law;
 - (3) Two independently executed and notarized authorizations for release, which are included with the application form.
 - (4) A photo I.D. card showing a full face front view of the applicant in which facial features are clear and distinguishable.

PROPOSED CHANGE TO HEADING OF RULE 100D

- D. ~~Certification-of-Test-Scores-~~ Professional Responsibility Test Scores. It is the responsibility of the applicant to provide evidence of satisfaction of Court Rule IIA(5) by submitting a report of a scaled score of 85 or higher on the Multistate Professional Responsibility Examination.

Rule 105. Fees

- E. Fee for Admission Without Examination. An applicant for admission without examination shall submit a fee of \$500. An applicant for admission pursuant to Rule VI shall submit a fee of \$700.

Rule 104. Hearings

- F. Action on Appeal. If the applicant appeals the determination of the Board under Court Rule ~~VH~~VIII, the Board shall file with the Clerk of the Appellate Courts the findings, conclusions of law and determination of the Board. ~~An appeal to the Court shall follow Rules of the Lawyers' Professional Responsibility Board.~~