

STATE OF MINNESOTA
IN SUPREME COURT

C5-84-2139

Order Amending the Rules of
the Supreme Court and of the
State Board of Law Examiners
for Admission to the Bar

ORDER

WHEREAS, Minnesota Statutes 481.01 charges the Board of Law Examiners with the administration of the Rules for Admission to Practice Law in the State,

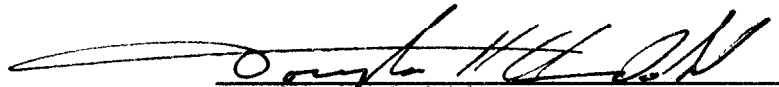
WHEREAS, the Board of Law Examiners has petitioned to amend the Rules of the Supreme Court and of the State Board of Law Examiners for Admission to the Bar,

WHEREAS, a public hearing on the petition was held, with prior notice given on May 12, 1988,

NOW, THEREFORE, it is hereby ordered that the annexed Rules of the Supreme Court and of the State Board of Law Examiners for Admission to the Bar be, and the same hereby are, adopted, prescribed and promulgated to be effective on July 1, 1988.

Dated May 25, 1988

BY THE COURT



Douglas K. Amdahl
Chief Justice

OFFICE OF
APPELLATE COURTS

MAY 26 1988

FILED

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

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DEFINITIONS

These definitions apply to the Rules of the Supreme Court for Admission to the Bar and the Rules of the State Board of Law Examiners for Admission to the Bar.

1. "Board" means the Minnesota State Board of Law Examiners.
2. "Court" means the Minnesota Supreme Court.
3. "Director" means the staff director for the Board.
4. "Good character" means traits that are relevant to and have a rational connection with the present fitness or capacity of an applicant to practice law.
5. Deadlines and due dates specified under these Rules shall be taken to mean no later than 4:30 p.m. on the date stated; if the date falls on Saturday, Sunday, or a legal holiday, the deadline shall be the first working day thereafter.
6. "Approved law school" means a law school provisionally or fully approved by the American Bar Association.
7. "Legal services program" means a method, sponsored, approved or recognized by a state or county bar association or an approved law school, to provide legal assistance to indigents in civil or criminal matters.

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. The Court shall select a president 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 basis, 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;
 - (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 a law school 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:

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 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 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 military 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 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 the 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.
- E. Ineligibility for Admission Without Examination.** Any person who engages in the unauthorized practice of law in Minnesota without first obtaining a license as set forth in these Rules is ineligible for admission without examination.

Rule V. Temporary License for Legal Services Programs

- A. Eligibility.** An attorney licensed in another jurisdiction may obtain a temporary license to practice before the courts of Minnesota in all causes in which the applicant is associated with the legal services program in Minnesota.
- B. Filing.** The attorney shall file with the Clerk of the Appellate Courts:
- (1) A certificate of a court of last resort of the state of licensure certifying that the attorney is in good standing and that no charges of professional misconduct are pending;
 - (2) An affidavit attesting to the applicant's full-time practice as a licensed attorney in a legal services program in the state of licensure for a period of at least 18 months from an authorized person in that program;
 - (3) A statement that the applicant is currently associated with a legal services program in Minnesota from an authorized person of that legal services program; and
 - (4) Evidence of satisfaction of Rule IIA(5).
- C. Duration of License.** The temporary license shall expire when the applicant ceases to be associated with the legal services program in Minnesota, or 15 months from its issuance, whichever occurs first. The temporary license may be revoked at any time by order of the Court.
- D. Credit for Admission Without Examination.** Time in the practice of law in the State of Minnesota under this temporary license may be counted toward the applicant's eligibility for admission without examination under Rule IVA.

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 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 officer, 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 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 VIII. Appeal to the Supreme Court

A. Petition for Review.

- (1) Any applicant who is adversely affected by a final decision of the Board may appeal to the Court by serving upon and filing a petition for review with the Clerk of the Appellate Courts within 20 days of receipt by the applicant of a final decision of the 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 of the Board who shall transmit within 20 days a response to the Court setting forth the reasons for the Board's decision. Thereupon the Court shall give such directions, hold such hearings and make such order as it may in its discretion deem appropriate.

- B. Reapplication After Denial.** 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 of information, 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.
- B. Additional Filing for Examinee.** An applicant for admission by examination must also file or cause to be filed at least 30 days prior to the examination a certificate from an approved law school stating that the applicant has graduated, or stating that the applicant has fulfilled all requirements for graduation and will be graduated within 120 days following the examination for which the applicant filed.
- C. Additional Filing When Admitted Elsewhere.** An applicant admitted to practice in another jurisdiction shall in addition to the items in paragraph A, and if applicable paragraph B, file or cause to be filed before the application will be processed:
- (1) A certified copy of the application for admission to the bar in each jurisdiction in which the applicant had previously been admitted to the practice of law;
 - (2) A certification showing admission to the bar in each other jurisdiction;
 - (3) A certification from the proper authority in each other jurisdiction indicating that the applicant is in good standing and not under pending charges of misconduct.

D. **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.

E. **Repeat Examinee.** An applicant who has been unsuccessful on a prior Minnesota Bar Examination shall submit an application timely presented at the office of the Director accompanied by:

- (1) The proper fee as indicated in Rule 105;
- (2) Two independently executed and notarized authorizations for release of information, which are included with the application form;
- (3) A photo I.D. card showing a full face front view of the applicant in which facial features are clear and distinguishable;
- (4) If the original application is more than two years old, new affidavits as described in paragraph A(2);
- (5) After three examinations, a copy of a study plan approved by the Director at a conference held at least 30 days prior to application.

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 October 15 for the February examination, or by 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. **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.
- 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.
- 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;

- (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 102. Access to Examination Data

- A. **Statistics.** Statistical information relating to the examinations, admission, and the work of the Board may be released at the discretion of the Board.
- B. **Transferability of Examination Scores.** The Director may advise an applicant whether an examination score is sufficient under the rules of a jurisdiction, upon written request of an examinee, identifying by month and year the Minnesota examination taken, the exact name on the examination, and a copy of the rules of the jurisdiction in which the examinee is interested, pursuant to Rule 105H.
- C. **Examination Scores.** Upon written request the scores of an examinee may be disclosed as follows:
- (1) Upon request of the examinee, to the bar admission authority of a jurisdiction;
 - (2) At the discretion of the Board, to the law school from which the examinee graduated;
 - (3) To an unsuccessful examinee, the scores assigned to each of the various portions of the examination, and copies of answers to the essays pursuant to Rule 105I.

Rule 103. Investigations

- A. Charge for Report.** The Board may require an applicant to furnish at the applicant's expense a background investigation report from the National Conference of Bar Examiners or other designated agency.
- B. Updated Investigation.** The background investigation shall be updated for any applicant whose initial investigation is over one year old, and an additional fee may be charged for that purpose.
- C. 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 obtaining that data.

Rule 104. Hearings

- A. **Interviews.** The Director or the Board may require in-person interviews with an applicant to clarify information in the application, to determine eligibility for admission, to review study plans, or to facilitate the background investigation.
- B. **Request for Hearing.** The Director or the Board shall advise an applicant in writing of an adverse determination relating to the applicant's fitness or eligibility. The applicant may make a written request within 20 days of receipt of notification of the decision for a formal hearing.
- C. **Notice of Hearing.** At least 30 days prior to a formal hearing the Board shall notify the applicant of the time and place, of the right to be represented by counsel, and to present witnesses and written evidence. The Board shall be given at least ten days' notice of any witnesses to be presented by the applicant.
- D. **Proceedings.** In the discretion of the Board, the hearing may be held before the Board or before a hearing examiner appointed by the Board to conduct the hearing. The Board may subpoena evidence and witnesses, and may employ special counsel. The Board shall give the applicant at least ten days' notice of any witnesses to be presented by the Board. The hearing shall be recorded and a transcript shall be provided to the applicant on request at a reasonable cost.
- E. **Determination.** Upon the conclusion of the hearing the Board shall prepare findings of fact, conclusions of law and a determination. A copy shall be sent to the applicant and all parties to the proceedings by certified mail with return receipt requested.
- F. **Action on Appeal.** If the applicant appeals the determination of the Board under Court Rule VIII, the Board shall file with the Clerk of the Appellate Courts the findings, conclusions of law and determination of the 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 October 15 for the February examination, or on or before March 15 for the July examination, shall submit a fee of \$200.

An application for the examination submitted after the timely filing date but on or before December 15 for the February examination, or on or before 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 December 15 for the February examination, or on or before 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 December 15 for the February examination, or on or before May 15 for the July examination, shall include a fee of \$200 and comply with Rule 100E and Rule 101D(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.

F. Refunds of Fees. An applicant may request a refund in the amount of \$50 in the following circumstances:

- (1) An applicant who advises the Board in writing at least four days prior to an examination of the applicant's desire to withdraw the application.
- (2) An applicant denied permission to take an examination under Rule 101D(1) or 101D(5).

- G. **Carry-over of Fees.** The fee of an applicant declared ineligible under Court Rule IV shall be applied to an examination held within the succeeding 15 months at the written request of the applicant received within 30 days of notice of the denial. No other transfers of fees shall be granted.
- H. **Transfer of Examination Scores.** A request for transfer of scores pursuant to Rule 102B shall include a fee of \$5. A score report may be obtained by submitting payment of \$5 to the National Conference of Bar Examiners.
- I. **Copies of Examination Answers.** An unsuccessful applicant may request copies of the applicant's essay answers upon written request to the Board within 30 days of the release of the examination results and submission of a fee of \$15.
- J. **Other Fees.** For matters not covered in these Rules, the Director may set reasonable fees which reflect the costs of staff time, services, duplicating, postage, etc.

Rule 106. Bar Admissions Advisory Council

- A. Creation.** There shall be an Advisory Council consisting of representatives of the State Bar Association and of each of the local law schools to consult with the Board on matters of general policy concerning admissions to the bar, amendments to the Rules and other matters related to the work of the Board.
- B. Meetings.** The Secretary of the Board shall call a joint meeting of the Advisory Council and the Board at least once each year. The Council shall meet at such other time as it may determine or when called by the Court or the Board.
- C. Expenses.** The members of the Advisory Council shall receive no compensation or reimbursement of expenses.