

STATE OF MINNESOTA

IN SUPREME COURT

C5-84-2139

**ORDER FOR HEARING TO CONSIDER PROPOSED  
AMENDMENTS TO THE RULES FOR ADMISSION  
TO THE BAR**

IT IS HEREBY ORDERED that a hearing be had before this court in Courtroom 300 of the Minnesota Supreme Court, Minnesota Judicial Center, on May 18, 2004 at 2:30 p.m., to consider the petition filed on December 24, 2003, of the Minnesota State Board of Law Examiners to amend the Rules for Admission to the Bar. A copy of the petition is annexed to this order.

IT IS FURTHER ORDERED that:

1. All persons, including members of the Bench and Bar, desiring to present written statements concerning the subject matter of this hearing, but who do not wish to make an oral presentation at the hearing, shall file 12 copies of such statement with Frederick Grittner, Clerk of the Appellate Courts, 305 Judicial Center, 25 Rev. Dr. Martin Luther King, Jr. Boulevard, St. Paul, Minnesota 55155, on or before May 7, 2004, and
2. All persons desiring to make an oral presentation at the hearing shall file 12 copies of the material to be so presented with the aforesaid Clerk together with 12 copies of a request to make an oral presentation. Such statements and requests shall be filed on or before May 7, 2004.

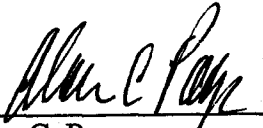
Dated: February 12, 2004

BY THE COURT:

OFFICE OF  
APPELLATE COURTS

FEB 12 2004

FILED

  
Alan C. Page  
Associate Justice

**STATE OF MINNESOTA**

**In Supreme Court**

**FILE NO.**

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

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**PETITION FOR  
RULE AMENDMENT**

**TO: THE HONORABLE JUSTICES OF THE MINNESOTA SUPREME COURT:**

Petitioner, the Minnesota State Board of Law Examiners (“Board”), respectfully petitions the Court to amend the Rules for Admission to the Bar (“Rules”) in order to permit the Board to admit lawyers to practice in Minnesota on a conditional basis and to modify the Rules governing the admission of lawyers licensed in another state or the District of Columbia to practice law in Minnesota as house counsel. The Board also respectfully petitions the Court to amend the Rules to make other minor rule revisions either necessary in light of the conditional admission and house counsel changes or desirable to improve the clarity of the Rules. In support of its’ Petition, the Board asserts the following:

1. The Minnesota Supreme Court has the exclusive and inherent power to regulate the practice of law in Minnesota.
2. Under the supervision of the Court, the Board is responsible for ensuring that lawyers who are admitted to the Bar in Minnesota have the competence as well as the character and fitness required to maintain the trust and confidence of clients, the public, the legal system, and the legal profession.

## **Conditional Admission**

3. The Board is recommending the establishment of a conditional admission option in Minnesota to give it another tool to use as it makes important and sometimes difficult admission decisions.
4. The Board has worked with the Lawyers Professional Responsibility Board (LPRB) in developing the conditional admission process. With conditional admission, the Board will be responsible for monitoring lawyers admitted conditionally. The LPRB will handle the enforcement of the terms of the conditional admission.
5. Under the current Rules, applicants who are found to have the character and fitness to practice law are admitted either by examination or based on years of practice.
6. Currently, a person seeking admission to the Bar in Minnesota, whose record of past conduct raises questions about character or fitness to practice law, must be either admitted or denied. If the Board admits someone who is not rehabilitated, the result could be injury to clients and the administration of justice. An error on the side of denial has harsh consequences for the applicant. After lengthy study and review of this issue over the past several years, the Board believes that adding a third option, conditional admission, would better protect the public and better serve the legal system and the legal profession. The Board also believes that a conditional admission option would better serve the applicant whose record raises serious questions about character and fitness but who presently appears to have made substantial progress in rehabilitation. The Board recommends adoption of the proposed amendments to the Rules for Admission to the Bar in order to establish conditional admission in Minnesota.

7. If the Court adopts the proposed amendments approving conditional admission, Minnesota will join 16 other states that have conditional admission.<sup>1</sup> States that have conditional admission report few problems in administration.<sup>2</sup> Conditional admission generally serves only a few lawyers each year,<sup>3</sup> has been well received by the bar and the public, and has been a positive addition to the admissions process.<sup>4</sup> The Board has been able to use the experience of these other states to craft a conditional admission rule that represents the best practices in this area.
  
8. The proposed amendments to the Rules include the addition of proposed Rule 16, entitled Conditional Admission. The proposed amendments also include minor changes to existing Rules 2, 3, 13 (re-numbered 14), Rule 14 (re-numbered 15) and Rule 16 (re-numbered 18) that the Board believes are necessary in light of the new Rule 16. The new Rule 16 and the proposed changes to the existing Rules are discussed below.

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<sup>1</sup> The states of Arizona, Connecticut, Florida, Idaho, Indiana, Kentucky, Montana, Nebraska, Nevada, New Jersey, New Mexico, North Dakota, Oregon, South Dakota, Texas, and West Virginia provide for conditional admission. See Exhibit A, the National Conference of Bar Examiners and American Bar Association Section of Legal Education and Admissions to the Bar, *Comprehensive Guide to Bar Admission Requirements 2003*, Chart II for additional details on conditional admission.

<sup>2</sup> The Board conducted an email and telephone survey of each state with a conditional admission option and found that states implementing conditional admission programs have had few problems and are pleased with the programs. See Exhibit B, Minnesota State Board of Law Examiners, *State Data on Conditional Admission Programs*, Sept. 2003.

<sup>3</sup> Board research found that most states with conditional admission admit approximately ten or fewer applicants conditionally each year. However, four states, Arizona, Florida, Montana, and New Jersey, admit approximately ten to twenty applicants conditionally each year. Texas admits approximately thirty applicants conditionally each year. See Exhibit B, Minnesota State Board of Law Examiners, *State Data on Conditional Admission Programs*, Sept. 2003.

<sup>4</sup> See Jennifer C. Clarke, Conditional Admission of Applicants to the Bar: Protecting Public and Private Interests, *The Bar Examiner*, May 1995 at 53, 63; Michael J. Oths, Conditional Admission in Idaho, *The Bar Examiner*, February 2002, at 6, 14. See generally, Exhibit B, Minnesota State Board of Law Examiners, *State Data on Conditional Admission Programs*, Sept. 2003; Jack W. Marshall, Probationary Licensure in Texas, *The Bar Examiner*, May 1997, at 31, 31.

9. **Rule 16, Conditional Admission.** Rule 16 would permit the Board to recommend to the Court that an applicant be admitted conditionally. This option would be available to a small segment of applicants who have a record of character and fitness issues and who also have shown evidence of reform and rehabilitation. The conditional admission recommendation, when chosen, will result from an adverse determination hearing conducted pursuant to Rule 15. A court reporter is present at such hearings and a record of the hearing is made. The applicant has a right to be represented by counsel and a right to present witnesses and evidence. After the hearing, the Board may recommend that the applicant be admitted, be denied, or be admitted conditionally if the applicant consents to be admitted subject to conditions. Rule 16 does not specify the types of conduct that might warrant a Board decision to recommend conditional admission. However, the Board expects conduct arising from chemical abuse or dependency to be the most common conduct likely to merit a recommendation of conditional admission. The Board also anticipates that applicants with a record that includes financial irresponsibility or misdemeanor criminal conduct may be candidates for conditional admission.

10. The conditions will be set forth in a consent agreement entered into between the applicant and the Board. The consent agreement will specify the terms and conditions that must be carried out by the applicant. The consent agreement will become a part of the applicant's application file, which is not public information, and will remain confidential subject to the Board Rules and the Rules on Lawyers Professional Responsibility (RLPR). The Board will provide the Office of Lawyers Professional Responsibility (OLPR) with a list of conditionally admitted lawyers.

11. During the conditional period, which could extend up to two years, the Board, through its' Conditional Admission Committee, will monitor the lawyer's compliance with the terms of the consent agreement. The monitoring Committee will be made up of members of the Board appointed by the president and will be supported by the Board's staff. The Committee will receive and review the periodic reports required

by the consent agreement. In addition, the Committee will have the authority to conduct investigations and take actions necessary to monitor compliance. If the Committee finds that the conditionally admitted lawyer has violated the terms and conditions of the consent agreement, it will present its' findings to the Board. The Board will review the findings of the Committee and may, at its' discretion, file a complaint with the OLPR seeking to enforce the consent agreement.

12. In the event the Board files a complaint with the OLPR, the lawyer's application file will be forwarded to the OLPR, and the conditionally admitted lawyer's conditional admission period will be extended until the complaint is disposed of by the OLPR. The Director of the OLPR shall have the authority to dismiss the complaint, extend and/or modify the consent agreement, or initiate proceedings to revoke the conditionally admitted lawyer's license.<sup>5</sup> If the Director of the OLPR determines that a violation of the terms of the consent agreement warrants revocation of the license, the matter will be submitted to a panel and will proceed like any other matter submitted to a panel under Rule 8 of the RLPR. If the panel finds that there is probable cause to revoke the license, the Director of the OLPR will file a petition for revocation of conditional admission with the Court. After a hearing and findings of fact, conclusions, and recommendations by a referee, the Court will have the full range of options for disciplinary action under RLPR Rule 15, including revocation of the conditional admission license.<sup>6</sup>

13. The Board will also transfer a conditionally admitted lawyer's application file to the OLPR, at the request of that office, if the conditionally admitted lawyer is the subject of a complaint of unprofessional conduct from a source other than the Board.

14. To incorporate the new conditional admission rule into the Rules, the Board recommends the following minor rule changes:

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<sup>5</sup> See Exhibit C, Amendments to the Rules on Lawyers Professional Responsibility have been approved by the Lawyers Professional Responsibility Board and will be proposed to the Court.

15. **Rule 2, Definitions.** The Board recommends defining “application file” as the file of all information concerning an applicant to the bar as well as all information gathered during the conditional admission period.
16. **Rule 13, Immunity.** Existing Rule 12 (re-numbered 13) provides immunity from civil suit to persons or entities providing the Board with information about an applicant or potential applicant. Under the proposed revisions, persons or entities that provide the Board with information about a conditionally admitted lawyer will also be immune from civil liability for such communications.<sup>7</sup>
17. **Rule 14, Confidentiality and Release of Information.** In the event a conditionally admitted lawyer violates the terms of his or her consent agreement, the Board may file a complaint with the OLPR, and provide the OLPR with the lawyer’s application file. The proposed amendments to existing Rule 13D (re-numbered 14D) authorize the release of the application file to the OLPR.
18. **Rule 15, Adverse Determinations and Hearings.** The Board anticipates that some applicants who receive an adverse determination may offer to stipulate to their past misconduct and propose consent agreement terms that would result in their conditional admission. Permitting such stipulations may be in the best interests of the applicant and the Board. The proposed amendment to Rule 15E informs applicants of the possibility of a stipulated resolution rather than requiring that the hearing be adversarial.
19. **Rule 18, Reapplication After Denial or Revocation of Conditional Admission License.** A conditionally admitted lawyer whose license is revoked because he or she violates the terms of the consent agreement will be treated the same as an applicant who is denied for failure to meet character and fitness standards. An applicant who has been denied for character and fitness reasons is prohibited from

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<sup>6</sup> See Exhibit D for a flow-chart of the conditional admission process.

reapplying for admission for three years from the date of the adverse determination. The conditionally admitted lawyer whose license has been revoked would be prohibited from reapplying for admission for three years from the date of the revocation.

20. Under the provisions of these rule amendments, conditionally admitted lawyers will be permitted to practice but will do so under specific conditions. The conditions will include regular reporting requirements during the conditional period. The conditions can be specifically tailored to the types of problems that the individual experienced in the past. For example, if a lawyer is chemically dependent, but in recovery for a short period of time, the consent agreement may specify continued participation in a sobriety support group such as Alcoholics Anonymous. Should the conditionally admitted lawyer discontinue his or her participation in the group or fail to provide proof of participation, the Board will investigate the matter, and if appropriate, file a complaint with the OLPR for violation of the consent agreement. The conditionally admitted lawyer's application file, including the consent agreement and a record of the circumstances that warranted the filing of the complaint, will be forwarded to the OLPR. When the misconduct is serious the conditionally admitted lawyer's license may be revoked. Less serious measures may also result such as an extension or modification of the consent agreement, or discipline other than revocation of the license. In the event the OLPR dismisses the complaint, the file will be returned to the BLE for continued monitoring until the end of the conditional admission period.

21. Another example of a situation where conditional admission may be recommended is for an applicant who has a record of past misconduct but who now appears fit to practice law. In these situations, the Board is often concerned that not enough time has passed between when the lawyer began addressing his or her past behavior and the present. Because of this lack of a history of responsible behavior, the Board, in the past, may have held the application in abeyance for 12 to 24 months to

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<sup>7</sup> This provision mirrors Rule 21(b) of the RLPR which affords immunity to persons providing information relative to LPRB investigations.



allow the applicant additional time to present a more complete record of responsible behavior. This process often works an economic hardship on applicants, who, having invested time and money in legal training, are not permitted to practice law. The adoption of a conditional admission option would in large part eliminate the need to hold applicants in abeyance. Conditional admission would allow them to begin practicing immediately while providing for a 12 to 24 month monitoring period.

22. The Board respectfully submits these proposed amendments to establish conditional admission in Minnesota. If these amendments are adopted, conditional admission will be another tool for the Board to use as it makes important and difficult decisions on admitting lawyers to practice in Minnesota. The Board believes that having conditional admission will help the Board better protect the public and the legal profession from lawyers who appear to be rehabilitated, but may be at risk of relapse. The Board also believes that such a program will better serve lawyers who do not have a lengthy record of rehabilitation, but who show clear signs of substantial progress toward rehabilitation and readiness to practice law.

23. Because the Board does not anticipate admitting large numbers of applicants conditionally, the Board does not expect the conditional admission option to significantly increase its' cost of operations. Based on the experience of other states,<sup>8</sup> the Board expects to admit no more than 5 applicants conditionally each year. The Board believes that requesting, reviewing, and monitoring the information submitted by this small number of conditionally admitted lawyers can be incorporated into the work currently being done by the Board's character and fitness investigation staff.

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<sup>8</sup> See Exhibit B, Minnesota State Board of Law Examiners, State Data on Conditional Admission Programs, Sept. 2003.

## House Counsel License

24. The Board is also proposing amendments to the Rules that address the licensing of house counsel. Proposed amendments to the existing temporary house counsel rule, Rule 9, will reduce the number of years of practice necessary to qualify for this license. The proposed Rule 10 provides for a house counsel license that is not time-limited. Under proposed provisions, applicants for either license need not have practiced in the state where they were licensed, including counsel currently practicing in Minnesota.

25. Existing Rule 9, Temporary License for In-House Counsel, permits admission of lawyers licensed in another state or the District of Columbia to practice in Minnesota for the limited purpose of providing house counsel services. The employer may be a corporation, association, business or governmental entity. Among other evidence of qualification, the applicant must provide a certificate of good standing from the state in which he or she is licensed and evidence that no disciplinary charges are pending. An expedited character and fitness investigation is conducted and if satisfactory, a temporary license is issued limiting the applicant to practice solely for the named employer.

26. The Rule 9 license is valid for no more than 12 months, and may be revoked before that time if the holder is admitted to practice law in Minnesota under any other rule, receives an adverse determination when applying for a license under another rule, or is no longer employed by the designated employer.

27. The amendments to the house counsel rule reflect cooperation between the Board and the Minnesota State Bar Association (MSBA). The MSBA, as part of its' review of the Rules of Professional Conduct, considered adopting the American Bar Association's (ABA) Model Rule regarding corporate counsel, Model Rule 5.5(d)(1). The ABA's Model Rule would permit a lawyer, admitted in another jurisdiction, to

provide legal services to the lawyer's employer in a jurisdiction where the lawyer is not admitted. However, in light of Minnesota's existing rules for admission of house counsel, as well as perceived difficulties in establishing a house counsel registration process, the MSBA agreed not to recommend adoption of the ABA Model Rule 5.5(d)(1), with the understanding that the Board would streamline its' house counsel rule.

28. These proposed amendments reflect the Board's efforts to make the house counsel licensing process efficient and responsive to the increasingly multijurisdictional practice of house counsel. With this goal in mind, the Board's proposed rule amendments will change the process for licensing lawyers as house counsel in several substantive ways.

29. First, the Board recommends offering both a temporary house counsel license, covered by amended Rule 9, and a standard house counsel license, established in proposed Rule 10. The standard house counsel license will not be time-limited. Second, the amendments will decrease the length of practice requirement for either house counsel license from five of the previous seven years to three of the previous five years. Third, both Rules 9 and 10 contain specific provisions stating that house counsel must be licensed to practice in Minnesota. However, under new Rules 9 and 10, the applicant need not have practiced where he or she was licensed in order to qualify for admission in Minnesota. This provision operates as a grandfathering provision, permitting lawyers employed as house counsel in Minnesota or elsewhere to qualify for admission under these Rules. The amendments will permit house counsel licensed in one jurisdiction, but practicing as house counsel in another jurisdiction, to use those years of practice to satisfy the length of practice requirement. Fourth, the amendments provide for reissuance of either the temporary or standard house counsel license in the event that the license expires due to termination of the license holder's employment and re-employment with another employer within 90 days.

30. The Board's amendments to the house counsel license recognize the national scope of corporate law practice as well as the need for house counsel to move from jurisdiction to jurisdiction and to be licensed quickly once in Minnesota.
31. The temporary license provides for an expedited character and fitness review that permits the lawyer to begin practicing immediately while the Board completes a more extensive character and fitness review.<sup>9</sup> The standard house counsel license differs from the Rule 7 (Admission Without Examination) license in that it may be issued to an applicant who has practiced law for only 3 years, a period of time 2 years shorter than that which is required for the Rule 7 license.
32. In addition, both the temporary and standard house counsel licenses authorize the holder to practice solely for the designated employer. Any lawyer who wishes to avoid the restrictions of a house counsel license may, after 5 years of licensed practice either in or out of Minnesota, apply and be licensed under Rule 7.
33. Reducing the length of practice required for both the temporary and standard house counsel license to three of the previous five years will facilitate the admission of house counsel who are newer to the practice of law. The practice requirement of three of the last five years is a cautious choice that reflects the Board's interest in maintaining high standards for admission. Although many states currently admitting or registering house counsel for the limited purpose of providing legal services to an employer do not have a length of practice requirement, the Board believes this relatively short practice requirement will help ensure that lawyers admitted to Minnesota without examination have some legal experience.
34. The amended Rules will permit house counsel licensed in one jurisdiction, but practicing in another jurisdiction, to use their years of practice to meet the practice requirement for the temporary and standard house counsel licenses. The Board

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<sup>9</sup> Should the more comprehensive investigation uncover character and fitness issues not reported by the applicant, an adverse determination letter may be issued.

recommends this less stringent length of practice requirement to encourage applications from house counsel who may be employed in Minnesota, but never have applied for licensure because they did not qualify under the existing Rules. By this action the Board will permit the grandfathering of lawyers who may have been practicing as house counsel in states where they are not licensed, as well as lawyers who have been practicing as house counsel in Minnesota without a Minnesota license. The Board plans to publicize this change to encourage house counsel to apply for the license and participate in the legal community.

35. The temporary and standard house counsel licenses may be reissued within 90 days if they expire due to a change in the holder's employment. This recommendation recognizes the possibility of house counsel moving among employers. The proposed rule permits a temporary or standard house counsel license to be reissued, without requiring the lawyer to file another application, if the lawyer obtains employment within 90 days that meets the necessary requirements of the Rule. However, if more than 90 days pass between the termination of the license holder's employment and the start of work for a qualifying subsequent employer, the lawyer must submit a new application in order to be licensed.

36. In addition to the amendments and new provisions discussed above, the Board proposes some additional amendments to the Rules that are necessary to implement the revised Rule 9 and proposed Rule 10. The first change is to Rule 4A(4), which has been revised to recognize that an applicant could qualify for admission under the new Rule 10. The other change is to existing Rule 11 (re-numbered 12), which has been revised to incorporate the new fees. The Board recommends a fee of \$500 for the temporary house counsel license and a fee of \$750 for the standard house counsel license. The Board also recommends a fee of \$275 for the reissuance of a license under either Rule 9 or Rule 10 if the license is reissued within 90 days of expiration due to a change in employment. Applicants seeking reissuance thereafter must submit a new application with the applicable fee.

37. The Board does not expect the changes in the House Counsel Rule to significantly increase its' cost of operations. The Board anticipates that the new house counsel rules will increase the number of house counsel licenses issued, and therefore increase processing and investigation costs; however, the fees charged for the licenses, \$500 for the temporary license and \$750 for the standard license, are expected to cover these expenses.

38. The Board respectfully submits these amendments and new rule provisions in order to facilitate issuance of a Temporary House Counsel License and to establish a rule permitting the issuance of a standard House Counsel License. The Board believes these proposed amendments will make the house counsel licensing process more efficient and responsive to the needs of lawyers practicing as house counsel. The Board also believes these amendments will preserve the Court's and the Board's ability to maintain the current high standards for admission to the bar in Minnesota.


### **Minor Clarifying Rule Changes**

39. The Board recommends several minor rule changes to improve the clarity of the Rules. Most of these revisions are designed to reduce the number of questions the Board staff receives from applicants. These minor changes are self-explanatory and are shown as changes to existing Rules 2, 3, 4, 5, 6, 7, 8, 10 (re-numbered 11), Rule 11 (re-numbered 12), Rule 12 (re-numbered 13), Rule 14 (re-numbered 15), and Rule 17 (re-numbered 19).

40. The addition of proposed Rules 10 and 16 will require the re-numbering of existing Rules 10, 11, 12, 13, 14, 15, 16, and 17.

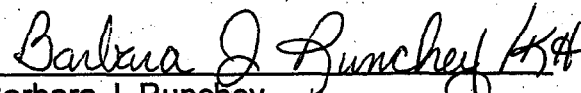
Based upon the foregoing, the Board respectfully requests that the Court amend the current Rules for Admission to the Bar and adopt the proposed amended Rules attached to this Petition as Exhibit E.

Dated: 12-24-03



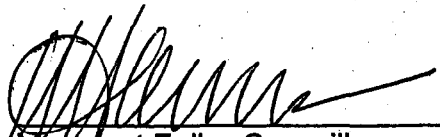
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John D. Kelly  
President  
Minnesota State Board of Law Examiners  
Hanft, Fride & O'Brien  
1000 US Bank Place  
Duluth, MN 55802  
(218) 722-4766  
Attorney No. 54732



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Barbara J. Runchey  
Secretary and President-Elect  
Runchey, Louwagie & Wellman  
533 West Main Street  
Marshall, MN 56258  
(507) 537-0515  
Attorney No. 0094365



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Margaret Fuller Corneille  
Director  
Minnesota State Board of Law Examiners  
380 Jackson Street, Suite 201  
St. Paul, MN 55101  
(651) 297-1857  
Attorney No. 179334



CHART II: Character and Fitness Determinations

State or Jurisdiction	Does your jurisdiction have published character and fitness standards?		Will a felony conviction bar applicant from admission?		Does a separate agency evaluate character and fitness?		Do your rules provide for conditional admission, other than by waiver?		Indicate the categories of conditional admission your rules permit.					Does your jurisdiction have a structured program for deferring admission?	
	YES	NO	YES	NO	YES	NO	YES	NO	Substance Abuse	Mental Disability	Debt	Criminal History	Other	Yes	No
Alabama		X		X		X		X							X
Alaska	X			X		X		X							X
Arizona	X			X		X	X		X	X	X	X	X		X
Arkansas	X			X		X		X						X	
California		X		X		X		X						X	
Colorado	X			X		X		X							X
Connecticut	X			X		X	X		X	X				X	
Delaware		X		X		X		X							X
Dist. of Columbia		X		X		X		X							X
Florida	X			X		X	X		X	X				X	
Georgia		X		X		X		X							X
Hawaii		X		X		X		X							X
Idaho	X			X		X	X		X	X	X	X	X		X
Illinois	X			X		X		X							X
Indiana	X		X			X	X		X	X	X	X	X	X	
Iowa		X		X		X		X							X
Kansas		X		X	X			X							X
Kentucky		X		X		X	X		X	X	X	X	X		X
Louisiana	X			X	X			X							X
Maine		X		X		X		X							X
Maryland		X		X		X		X							X
Massachusetts	X			X		X		X							X
Michigan	X			X	X			X							X
Minnesota	X			X		X		X						X	
Mississippi	X		X			X		X							X
Missouri	X		X			X		X							X
Montana	X			X		X	X		X	X	X	X	X	X	
Nebraska	X			X		X	X		X	X	X	X	X		X
Nevada	X			X	X			X	X	X	X	X	X	X	
New Hampshire	X			X	X			X							
New Jersey	X			X	X			X	X	X	X	X	X		X
New Mexico	X			X		X	X		X	X		X	X		X
New York		X		X	X			X							X
North Carolina	X			X		X		X							X



# CHART II: Character and Fitness Determinations

State or Jurisdiction	Does your jurisdiction have published character and fitness standards?		Will a felony conviction bar applicant from admission?		Does a separate agency evaluate character and fitness?		Do your rules provide for conditional admission, other than by waiver?		Indicate the categories of conditional admission your rules permit.					Does your jurisdiction have a structured program for deferring admission?	
	YES	NO	YES	NO	YES	NO	YES	NO	Substance Abuse	Mental Disability	Debt	Criminal History	Other	Yes	No
North Dakota	X			X		X	X		X	X	X	X	X		X
Ohio	X			X	X			X							X
Oklahoma		X		X		X		X							X
Oregon	X		X			X	X		X	X	X	X		X	
Pennsylvania		X		X		X		X							X
Rhode Island	X			X	X			X							X
South Carolina	X			X	X			X							X
South Dakota	X			X		X	X								X
Tennessee		X		X		X		X							X
Texas	X		X			X	X		X	X	X	X	X		X
Utah	X			X		X		X							X
Vermont	X			X	X			X							X
Virginia	X			X		X		X							X
Washington		X		X		X		X							X
West Virginia		X		X	X		X		X	X	X	X			X
Wisconsin	X			X		X		X							X
Wyoming	X			X	X			X							X
Guam		X		X		X		X						X	
N. Mariana Islands		X	X			X		X							X
Palau		X		X		X		X							X
Puerto Rico		X		X	X			X							X
Virgin Islands		X		X		X		X							X

See supplemental remarks.

**MINNESOTA STATE BOARD OF LAW EXAMINERS**

**State Data on Conditional Admission Programs**

**September 2003**

<b>STATE</b>	<b>APPROX. NO. OF APPLICANTS EACH YEAR<sup>1</sup></b>	<b>APPROX. NO. OF LAWYERS ADMITTED CONDITIONALLY EACH YEAR</b>	<b>SATISFIED WITH CONDITIONAL ADMISSION?</b>	<b>YEAR ADOPTED</b>
<b>Arizona<sup>2</sup></b>	<b>990</b>	<b>15-20</b>	<b>Yes</b>	<b>1995</b>
<b>Connecticut<sup>3</sup></b>	<b>1234</b>	<b>10</b>	<b>Yes</b>	<b>1998</b>
<b>Florida<sup>4</sup></b>	<b>3573</b>	<b>21</b>	<b>Yes</b>	<b>1987</b>
<b>Idaho<sup>5</sup></b>	<b>144</b>	<b>8-10</b>	<b>Yes</b>	<b>1998</b>
<b>Indiana<sup>6</sup></b>	<b>810</b>	<b>6</b>	<b>Yes</b>	<b>1997</b>
<b>Kentucky<sup>7</sup></b>	<b>510</b>	<b>4-10</b>	<b>Yes</b>	<b>1997</b>
<b>Montana<sup>8</sup></b>	<b>120</b>	<b>7-16</b>	<b>Yes</b>	<b>1997</b>
<b>Nebraska<sup>9</sup></b>	<b>264</b>	<b>&lt;1</b>	<b>Yes</b>	<b>2000</b>
<b>Nevada<sup>10</sup></b>	<b>599</b>	<b>5</b>	<b>Yes</b>	<b>1998</b>
<b>New Jersey<sup>11</sup></b>	<b>4099</b>	<b>10-15</b>	<b>Yes</b>	<b>1980</b>
<b>New Mexico<sup>12</sup></b>	<b>275</b>	<b>&lt;1</b>	<b>Yes</b>	<b>1990</b>
<b>North Dakota<sup>13</sup></b>	<b>47</b>	<b>1</b>	<b>Yes</b>	<b>1999</b>
<b>Oregon<sup>14</sup></b>	<b>819</b>	<b>1-3</b>	<b>Yes</b>	<b>1991</b>
<b>South Dakota<sup>15</sup></b>	<b>74</b>	<b>&lt;1</b>	<b>Yes</b>	<b>1996</b>
<b>Texas<sup>16</sup></b>	<b>3853</b>	<b>30</b>	<b>Yes</b>	<b>1988</b>
<b>West Virginia<sup>17</sup></b>	<b>364</b>	<b>6</b>	<b>Yes</b>	<b>2001</b>
<b>Puerto Rico<sup>18</sup></b>	<b>879</b>	<b>&lt;1</b>	<b>Yes</b>	<b>1998</b>

MINNESOTA STATE BOARD OF LAW EXAMINERS

State Data on Conditional Admission Programs

September 2003

SOURCE OF STATE DATA ON CONDITIONAL ADMISSION PROGRAMS

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<sup>1</sup> 2002 Statistics, The Bar Examiner, May 2003 at 6, 7-15.

<sup>2</sup> Telephone interview with Carolyn de Looper, Director, Committee on Examination on Character and Fitness, Arizona Supreme Court (Sept. 9, 2003)

<sup>3</sup> Email from David Stamm, Executive Director, Connecticut Bar Examining Committee to Jim Newes (Feb. 2002).

<sup>4</sup> Letter from George W. Carraway, Director of Investigations, Florida Board of Bar Examiners to Jim Newes of 02/25/02, at 1.

<sup>5</sup> Telephone interview with Carol McDonald, Admission Administrator, Idaho State Bar (Sept. 16, 2003). Although Ms. McDonald reports the program is working and successful, there are still some concerns about its effectiveness in the long run.

<sup>6</sup> Telephone interview with Mary Place Godsey, Executive Director, Indiana State Board of Law Examiners (Sept. 9, 2003).

<sup>7</sup> Email from Ron Hayes, Director & General Counsel, Kentucky Office of Bar Admissions to Jim Newes (Feb. 20, 2002).

<sup>8</sup> Telephone interview with Jan Weber, Bar Admissions Administrator, State Bar of Montana (Sept. 9, 2003).

<sup>9</sup> Telephone interview with James Henshaw, Director of Admissions, Nebraska State Bar Commission (Sept. 10, 2003).

<sup>10</sup> Email from Patrice Eichman, Director of Admissions, State Bar of Nevada to Jim Newes (Feb 20, 2002).

<sup>11</sup> Telephone interview with Martha Treese, staff, New Jersey Board of Law Examiners (Sept. 11, 2003).

<sup>12</sup> Email from Carol Skiba, Executive Director, New Mexico State Board of Law Examiners to Jim Newes (Feb. 2002).

<sup>13</sup> Telephone interview with Carla Kolling, Staff, North Dakota State Board of Law Examiners (Sept. 9, 2003).

<sup>14</sup> Email from Marlyce Gholston, Executive Director, Oregon State Board of Bar Examiners (Feb. 2002).

<sup>15</sup> Telephone interview with Sheridan Cash Anderson, Secretary, South Dakota Board of Bar Examiners (Sept. 9, 2003).

<sup>16</sup> Telephone interview with Jack Marshall, Texas Board of Law Examiners (Sept. 10, 2003).

<sup>17</sup> Telephone interview with Sue C. Rubenstein, Bar Admissions Administrator, West Virginia Board of Law Examiners (Sept. 9, 2003).

<sup>18</sup> Email from Sigfrido Steidel-Figueroa, Puerto Rico Board of Bar Examiners (Dec. 2, 2003).

***Proposed Amendments to the  
Rules on Lawyers Professional Responsibility  
to Provide for Conditional Admission.***

**RULE 8. DIRECTOR'S INVESTIGATION**

**(d) Disposition.**

**(4) *Submission to Panel.*** The Director shall submit the matter to a Panel under Rule 9 if:

(i) In any matter, with or without a complaint, the Director concludes that public discipline is warranted;

(ii) The lawyer makes a demand under subdivision (d)(2)(iii); or

(iii) A reviewing Board member so directs upon an appeal under subdivision (e).

(iv) The Director determines that a violation of the terms of a conditional admission agreement warrants revocation of the conditional admission.

**(5) *Extension or Modification of a Conditional Admission Agreement.*** If, in a matter involving a complaint against a conditionally admitted lawyer the Director determines that the conditional admission agreement was violated, the Director may enter into an agreement with the lawyer and the Board of Law Examiners to extend or modify the terms of the agreement for a period not to exceed two years.

**RULE 9. PANEL PROCEEDINGS**

**(i) Procedure at Panel Hearing.** Unless the Panel for cause otherwise permits, the Panel hearing shall proceed as follows:

(1) The Chair shall explain that the hearing's purpose is to determine:

- (i) whether there is probable cause to believe that public discipline is warranted on each charge, and that the Panel will terminate the hearing on any charge whenever it is satisfied that there is or is not such probable cause; or
- (ii) if an admonition has been issued under Rule 8(d)(2) or 8(e), that the hearing's purpose is to determine whether the panel should affirm the admonition on the ground that it is supported by clear and convincing evidence, should reverse the admonition, or, if there is probable cause to believe that public discipline is warranted, should instruct the Director to file a petition for disciplinary action in this Court); or
- (iii) whether there is probable cause to believe that a conditional admission agreement has been violated thereby warranting revocation of the conditional admission to practice law, and that the Panel will terminate the hearing whenever it is satisfied there is or is not such probable cause.

**(j) Disposition.** After the hearing, the Panel shall:

(1) If the hearing was held on charges of unprofessional conduct

(i) determine that there is not probable cause to believe that public discipline is warranted, or that there is not probable cause to believe that revocation of a conditional admission is warranted; or

(ii) if it finds probable cause to believe that public discipline is warranted, instruct the Director to file in this Court a petition for disciplinary action. The Panel shall not make a recommendation as to the matter's ultimate disposition; or

(iii) if it concludes that the attorney engaged in conduct that was unprofessional but of an isolated and non-serious nature, the Panel shall state the facts and conclusions constituting unprofessional conduct and issue an admonition.

(iv) if it finds probable cause to revoke a conditional admission agreement, instruct the Director to file in this Court a petition for revocation of conditional admission.

**(l) Complainant's Petition for Review.** If not satisfied with the Panel's disposition, the complainant may within 14 days file with the Clerk of the Appellate Courts a petition for review. The clerk shall notify the respondent and the Board Chair of the petition. The respondent shall be denominated by number or randomly selected initials in the proceeding. This Court will grant review only if the petition shows that the Panel acted arbitrarily, capriciously, or unreasonably. If the Court grants review, it may order such proceedings as it deems appropriate. Upon conclusion of such proceedings, the Court may dismiss the petition or, if it finds that the Panel acted arbitrarily, capriciously, or unreasonably, remand the matter to the same or a different Panel, direct the filing of a petition for disciplinary action or a petition for revocation of conditional admission, or take any other action as the interest of justice may require.

## **RULE 12. PETITION FOR DISCIPLINARY ACTION**

**(a) Petition.** When so directed by a Panel or by this Court or when authorized under Rule 10 or this Rule, the Director shall file with this Court a petition for disciplinary action or a petition to revoke conditional admission. An original and seven copies shall be filed. The petition shall set forth the unprofessional conduct charges. When a lawyer is subject to a probation ordered by this Court and the Director concludes that the lawyer has breached the conditions of the probation or committed additional serious misconduct, the Director may file with this Court a petition for revocation of probation and further disciplinary action.

## **RULE 14. HEARING ON PETITION FOR DISCIPLINARY ACTION**

**(a) Referee.** This Court may appoint a referee with directions to hear and report the evidence submitted for or against the petition for disciplinary action or petition for revocation of conditional admission.

\* \* \*

**(e) Referee's Findings, Conclusions, and Recommendations.** The referee shall make findings of fact, conclusions, and recommendations, file them with this Court, and notify the respondent and the Director of them. In revocation of conditional admission matters, the

referee shall also notify the Director of the Board of Law Examiners. Unless the respondent or Director, within ten days, orders a transcript and so notifies this Court, the findings of fact and conclusions shall be conclusive. If either the respondent or the Director so orders a transcript, then none of the findings of fact or conclusions shall be conclusive, and either party may challenge any findings of fact or conclusions. One ordering a transcript within ten days of the date the transcript is ordered shall file with the clerk of appellate courts a certificate as to transcript signed by the court reporter. The certificate shall contain the date on which the transcript was ordered, the estimated completion date (which shall not exceed 30 days from the date the transcript was ordered), and a statement that satisfactory financial arrangements have been made for the transcription. One ordering a transcript shall order and pay for an original transcript for the Court plus two copies, one copy for the respondent and one for the Director. One ordering a transcript shall specify in the initial brief to the Court the referee's findings of fact, conclusions and recommendations that are disputed.

#### **RULE 15. DISPOSITION; PROTECTION OF CLIENTS**

**(a) Disposition.** Upon conclusion of the proceedings, this Court may:

- (1) Disbar the lawyer;
- (2) Suspend the lawyer indefinitely or for a stated period of time;
- (3) Order the lawyer to pay costs;
- (4) Place the lawyer on a probationary status for a stated period, or until further order of this Court, with such conditions as this Court may specify and to be supervised by the Director;
- (5) Reprimand the lawyer;
- (6) Order the lawyer to successfully complete within a specified period such written examination as may be required of applicants for admission to the practice of law by the State Board of Law Examiners on the subject of professional responsibility;
- (7) Make such other disposition as this Court deems appropriate;

(8) Require the lawyer to pay costs and disbursements; in addition, in those contested cases where the lawyer has acted in the proceedings in bad faith, vexatiously, or for oppressive reasons, order the lawyer to pay reasonable attorney fees; or

(9) Dismiss the petition for disciplinary action or petition for revocation of conditional admission; or

(10) Revoke, modify or extend a conditional admission agreement.

## **RULE 18. REINSTATEMENT**

**(a) Petition for Reinstatement.** A petition for reinstatement to practice law shall be served upon the Director and the President of the State Bar Association. The original petition, with proof of service, and seven copies, shall then be filed with this Court. Together with the petition served upon the Director's Office, a petitioner seeking reinstatement shall pay to the Director a fee of \$300. Applications for admission to the bar following a revoked conditional admission shall be filed with the Board of Law Examiners pursuant to Rule 16, Rules for Admission to the Bar.

## **RULE 19. EFFECT OF PREVIOUS PROCEEDINGS**

### **(b) Disciplinary Proceedings.**

(1) *Conduct previously considered and investigated where discipline was not warranted.* Conduct considered in previous lawyer disciplinary proceedings of any jurisdiction, including revocation of conditional admission proceedings, is inadmissible if it was determined in the proceedings that discipline was not warranted, except to show a pattern of related conduct the cumulative effect of which constitutes an ethical violation, except as provided in subsection (b)(2).

(2) *Conduct previously considered where no investigation was taken and discipline was not warranted.* Conduct in previous lawyer disciplinary proceedings of any jurisdiction, including revocation of conditional admission proceedings which was not investigated is admissible, even if it was determined in the proceedings without investigation that discipline was not warranted.



(3) *Previous finding.* A finding in previous disciplinary proceedings that a lawyer committed conduct warranting discipline or revocation, modification or extension of conditional admission is, in proceedings under these Rules, conclusive evidence that the lawyer committed the conduct.

(4) *Previous discipline.* The fact that the lawyer received discipline in previous disciplinary proceedings, including revocation, modification or extension of conditional admission, is admissible to determine the nature of the discipline to be imposed, but is not admissible to prove that a violation occurred and is not admissible to prove the character of the lawyer in order to show that the lawyer acted in conformity therewith; provided, however, that evidence of such prior discipline may be used to prove:

(i) A pattern of related conduct, the cumulative effect of which constitutes a violation;

(ii) The current charge (e.g., the lawyer has continued to practice despite suspension);

(iii) For purposes of impeachment (e.g., the lawyer denies having been disciplined before); or

(iv) Motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

\* \* \*

**(e) Admission.** Subject to the Rules of Evidence, a lawyer's admission of unprofessional conduct or of violating a conditional admission agreement is admissible in proceedings under these Rules.

## **RULE 20. CONFIDENTIALITY; EXPUNCTION**

**(a) General Rule.** The files, records, and proceedings of the District Committees, the Board, and the Director, as they may relate to or arise out of any complaint or charge of unprofessional conduct against or investigation of a lawyer, shall be deemed confidential and shall not be disclosed, except:

(1) As between the Committees, Board and Director in furtherance of their duties;

(2) After probable cause has been determined under Rule 9(j)(1)(ii) or (iv) or proceedings before a referee or this Court have been commenced under these Rules;

(3) As between the Director and a lawyer admission or disciplinary authority of another jurisdiction in which the lawyer affected is admitted to practice or seeks to practice;

(4) Upon request of the lawyer affected, the file maintained by the Director shall be produced including any district committee report; however, the Director's work product shall not be required to be produced, nor shall the Director or Director's staff be subject to deposition or compelled testimony, except upon a showing to the court issuing the subpoena of extraordinary circumstance and compelling need. In any event, the mental impressions, conclusions, opinions and legal theories of the Director and Director's staff shall remain protected.

(5) If the complainant is, or at the time of the actions complained of was, the lawyer's client, the lawyer shall furnish to the complainant copies of the lawyer's written responses to investigation requests by the Director and District Ethics Committee, except that insofar as a response does not relate to the client's complaint or involves information as to which another client has a privilege that portions may be deleted;

(6) Where permitted by this Court; or

(7) Where required or permitted by these Rules.

(8) Nothing in this rule shall be construed to require the disclosure of the mental processes or communications of the Committee or Board members made in furtherance of their duties.

(9) As between the Director and the Client Security Board in furtherance of their duties to investigate and consider claims of client loss allegedly caused by the intentional dishonesty of a lawyer.

(10) As between the Director and the Board on Judicial Standards or its executive secretary in furtherance of their duties to investigate and consider conduct of a judge that occurred prior to the judge assuming judicial office.

(11) As between the Director and the Board of Law Examiners in furtherance of their duties under these rules.

**(b) Special Matters.** The following may be disclosed by the Director:

(1) The fact that a matter is or is not being investigated or considered by the Committee, Director, or Panel;

(2) With the affected lawyers consent, the fact that the Director has determined that discipline is not warranted;

(3) The fact that the Director has issued an admonition;

(4) The Panel's disposition under these Rules;

(5) The fact that stipulated probation has been approved under Rule 8(d)(3) or 8(e);

(6) The fact that the terms of a conditional admission agreement have been modified or extended under Rule 8(d)(5);

(67) Information to other members of the lawyer's firm necessary for protection of the firm's clients or appropriate for exercise of responsibilities under Rules 5.1 and 5.2, Rules of Professional Conduct.

Notwithstanding any other provision of this Rule the records of matters in which it has been determined that discipline is not warranted shall not be disclosed to any person, office or agency except to the lawyer and as between Committees, Board, Director, Referee or this Court in furtherance of their duties under these Rules.

**(c) Records after Determination of Probable Cause or Commencement of Referee or Court Proceedings.** Except as ordered by the referee or this Court and except for work product, after probable cause has been determined under Rule 9(j)(1)(ii) or (iv) or proceedings before a referee or this Court have been commenced under these Rules,

the files, records, and proceedings of the District Committee, the Board, and the Director relating to the matter are not confidential.

#### **RULE 24. COSTS AND DISBURSEMENTS**

**(a) Costs.** Unless this Court orders otherwise or specifies a higher amount, the prevailing party in any disciplinary proceeding or revocation of conditional admission proceeding decided by this Court shall recover costs in the amount of \$900.

**(b) Disbursements.** Unless otherwise ordered by this Court, the prevailing party in any disciplinary proceedings or revocation of conditional admission proceedings decided by this Court shall recover, in addition to the costs specified in subdivision (a), all disbursements necessarily incurred after the filing of a petition for disciplinary action under Rule 12. Recoverable disbursements in proceedings before a referee or this Court shall include those normally assessed in appellate proceedings in this Court together with those which are normally recoverable by the prevailing party in civil actions in the district court.

**(c) Time and Manner for Taxation of Costs and Disbursements.** The procedures and times governing the taxation of costs and disbursements and for making objection to same and for appealing from the clerk's taxation shall be as set forth in the Rules of Civil Appellate Procedure.

**(d) Judgment for Costs and Disbursements.** Costs and disbursements taxed under this Rule shall be inserted in the judgment of this Court in any disciplinary proceeding wherein suspension, ~~or~~ disbarment, or revocation of conditional admission is ordered. No suspended attorney shall be permitted to resume practice and no disbarred attorney may file a petition for reinstatement if the amount of the costs and disbursements taxed under this Rule has not been fully paid. A lawyer whose conditional admission has been revoked may not file an application for admission to the bar until the amount of the costs and disbursements taxed under this Rule has been fully paid.

#### **RULE 25. REQUIRED COOPERATION**

**(a) Lawyer's Duty.** It shall be the duty of any lawyer who is the subject of an investigation or proceeding under these Rules to cooperate with the District Committee, the Director, or the Director's staff, the Board, or a Panel, by complying with reasonable requests, including requests to:

- (1) Furnish designated papers, documents or tangible objects;
- (2) Furnish in writing a full and complete explanation covering the matter under consideration;
- (3) Appear for conferences and hearings at the times and places designated;
- (4) Execute authorizations and releases necessary to investigate alleged violations of a conditional admission agreement.

Such requests shall not be disproportionate to the gravity and complexity of the alleged ethical violations. The District Court of Ramsey County shall have jurisdiction over motions arising from Rule 25 requests. The lawyer shall be denominated by number or randomly selected initials in any District Court proceeding. Copies of documents shall be permitted in lieu of the original in all proceedings under these Rules. The Director shall promptly return the originals to the respondent after they have been copied.

**(b) Grounds of Discipline.** Violation of this Rule is unprofessional conduct and shall constitute a ground for discipline; provided, however, that a lawyer's challenge to the Director's requests shall not constitute lack of cooperation if the challenge is promptly made, is in good faith and is asserted for a substantial purpose other than delay.

#### **RULE 26. DUTIES OF DISCIPLINED, DISABLED, CONDITIONALLY ADMITTED, OR RESIGNED LAWYER**

**(a) Notice to Clients in Non-Litigation Matters.** Unless this Court orders otherwise, a disbarred, suspended or resigned lawyer, a lawyer whose conditional admission has been revoked, or a lawyer transferred to disability inactive status, shall notify each client being represented in a pending matter other than litigation or administrative proceedings of the lawyer's disbarment, suspension, resignation or disability. The notification shall urge the client to seek legal advice of the client's own choice elsewhere, and shall include a copy of the Court's order.

**(b) Notice to Parties and Tribunal in Litigation.** Unless this Court orders otherwise, a disbarred, suspended or resigned lawyer, a lawyer whose conditional admission has been revoked, or a lawyer

transferred to disability inactive status, shall notify each client, opposing counsel (or opposing party acting *pro se*) and the tribunal involved in pending litigation or administrative proceedings of the lawyer's disbarment, suspension, resignation, or disability. The notification to the client shall urge the prompt substitution of other counsel in place of the disbarred, suspended, or resigned, disabled lawyer, and shall include a copy of the Court's order.

**(c) Manner of Notice.** Notices required by this Rule shall be sent by certified mail, return receipt requested, within ten (10) days of the Court's order.

**(d) Client Papers and Property.** A disbarred, suspended, resigned or disabled lawyer, or a lawyer whose conditional admission has been revoked, shall make arrangements to deliver to each client being represented in a pending matter, litigation or administrative proceeding any papers or other property to which the client is entitled.

**(e) Proof of Compliance.** Within fifteen (15) days after the effective date of the Court's order, the disbarred, suspended, resigned or disabled lawyer, or a lawyer whose conditional admission has been revoked, shall file with the Director an affidavit showing:

- (1) That the affiant has fully complied with the provisions of the order and with this Rule;
- (2) All other State, Federal and administrative jurisdictions to which the affiant is admitted to practice; and
- (3) The residence or other address where communications may thereafter be directed to the affiant.

Copies of all notices sent by the disbarred, suspended, resigned or disabled lawyer, or lawyer whose conditional admission has been revoked, shall be attached to the affidavit, along with proof of mailing by certified mail.

**(f) Maintenance of Records.** A disbarred, suspended, resigned or disabled lawyer, or a lawyer whose conditional admission has been revoked, shall keep and maintain records of the actions taken to comply with this Rule so that upon any subsequent proceeding being instituted by or against the ~~disbarred, suspended, resigned or disabled lawyer~~, proof of

compliance with this Rule and with the disbarment, suspension, resignation, or disability, or revoked conditional admission order will be available.

**(g) Condition of Reinstatement.** Proof of compliance with this Rule shall be a condition precedent to any petition or affidavit for reinstatement made by a disbarred, suspended, resigned or disabled lawyer, or to an application for admission submitted to the Board of Law Examiners after revocation of a lawyer's conditional admission.

## **RULE 27. TRUSTEE PROCEEDING**

**(a) Appointment of Trustee.** Upon a showing that a lawyer is unable to properly discharge responsibilities to clients due to disability, disappearance or death, or that a suspended, disbarred, or resigned, or disabled lawyer, or a lawyer whose conditional admission has been revoked, has not complied with Rule 26, and that no arrangement has been made for another lawyer to discharge such responsibilities, this Court may appoint a lawyer to serve as the trustee to inventory the files of the disabled, disappeared, deceased, suspended, disbarred or resigned lawyer, or a revoked conditional admission lawyer and to take whatever other action seems indicated to protect the interests of the clients and other affected parties.

**(b) Protection of Records.** The trustee shall not disclose any information contained in any inventoried file without the client's consent, except as necessary to execute this Court's order appointing the trustee.

## **RULE 28. DISABILITY STATUS**

**(a) Transfer to Disability Inactive Status.** A lawyer whose physical condition, mental illness, mental deficiency, senility, or habitual and excessive use of intoxicating liquors, narcotics, or other drugs prevents the lawyer from competently representing clients shall be transferred to disability inactive status.

**(b) Immediate Transfer.** This Court may immediately transfer a lawyer to disability inactive status upon proof that the lawyer has been found in a judicial proceeding to be a mentally ill, mentally deficient, incapacitated, or inebriate person.

**(c) Asserting Disability in Disciplinary Proceeding.** A lawyer's asserting disability in defense or mitigation in a disciplinary proceeding or a proceeding to revoke conditional admission shall be deemed a waiver of the doctor-patient privilege. The referee may order an examination or evaluation by such person or institution as the referee designates. If a lawyer alleges disability during a disciplinary investigation or proceeding, or a proceeding to revoke conditional admission, and therefore is unable to assist in the defense, the Director shall inform the Court of the allegation and of the Director's position regarding the allegation. The Court may:

- (1) Transfer the lawyer to disability inactive status;
- (2) Order the lawyer to submit to a medical examination by a designated professional;
- (3) Appoint counsel if the lawyer has not retained counsel;
- (4) Stay disciplinary proceedings or proceedings to revoke conditional admission until it appears the lawyer can assist in the defense;
- (5) Direct the Director to file a petition under Rule 12;
- (6) Appoint a referee with directions to make findings and recommendations to the Court regarding the disability allegation or to proceed under Rule 14;
- (7) Make such or further orders as the Court deems appropriate.

**(d) Reinstatement.** This Court may reinstate a lawyer to active status upon a showing that the lawyer is fit to resume the practice of law. The parties shall proceed as provided in Rule 18. The lawyer's petition for reinstatement:

- (1) Shall be deemed a waiver of the doctor-patient privilege regarding the incapacity; and
- (2) Shall set forth the name and address of each physician, psychologist, psychiatrist, hospital or other institution that examined or treated the lawyer since the transfer to disability inactive status.

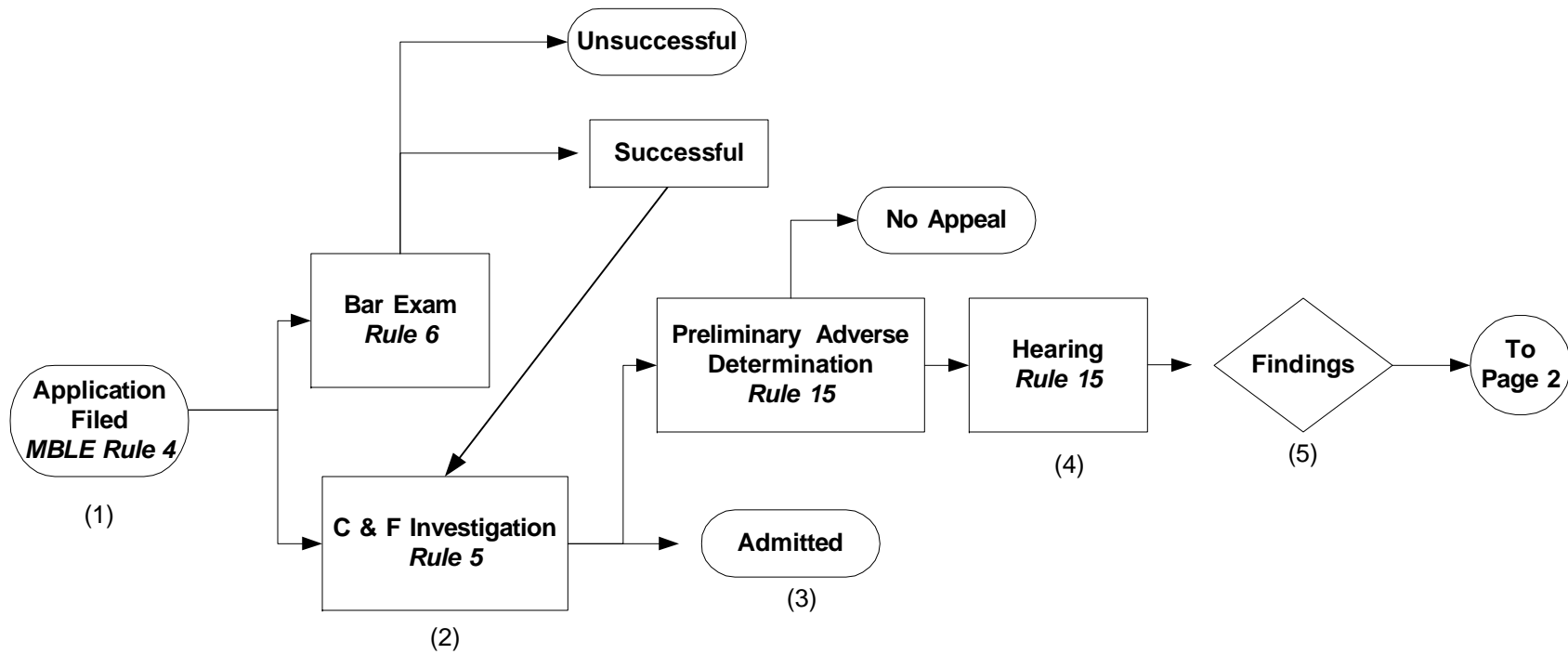


**(e) Transfer Following Hearing.** In cases other than immediate transfer to disability inactive status, and other than cases in which the lawyer asserts personal disability, this Court may transfer a lawyer to or from disability inactive status following a proceeding initiated by the Director and conducted in the same manner as a disciplinary proceeding under these Rules. In such proceeding:

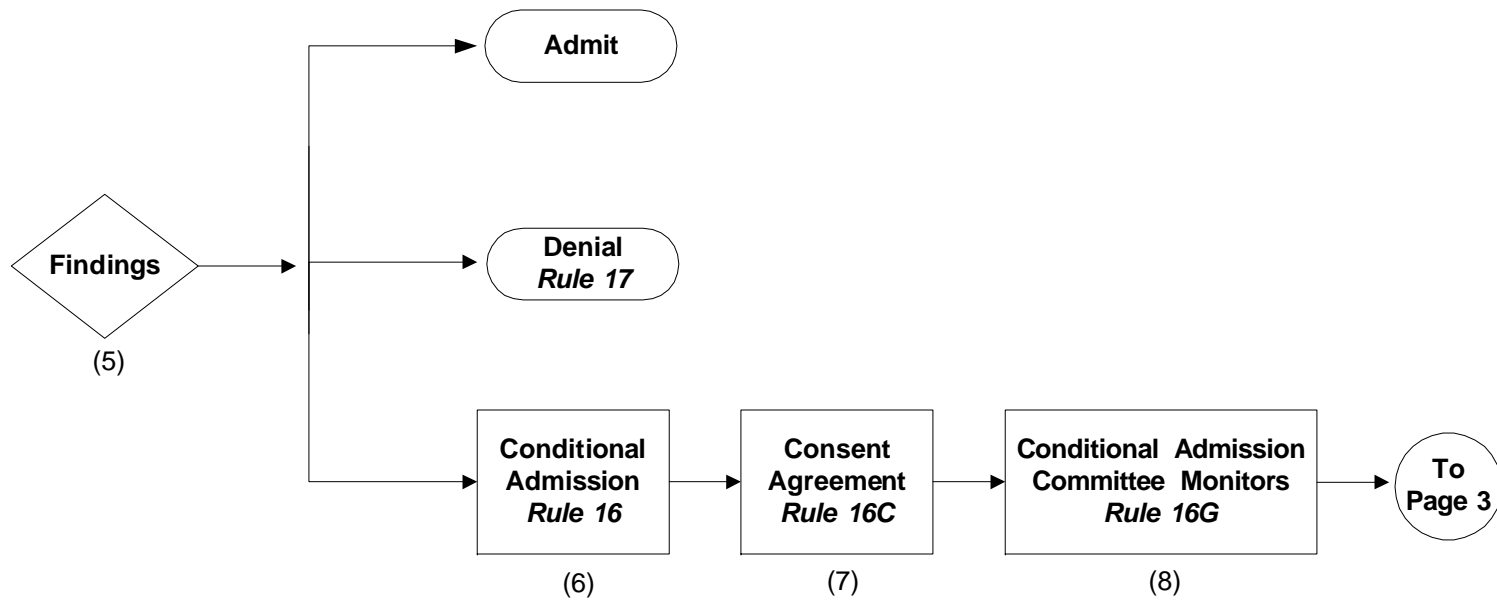
(1) If the lawyer does not retain counsel, counsel may be appointed to represent the lawyer; and

(2) Upon petition of the Director and for good cause shown, the referee may order the lawyer to submit to a medical examination by an expert appointed by the referee.

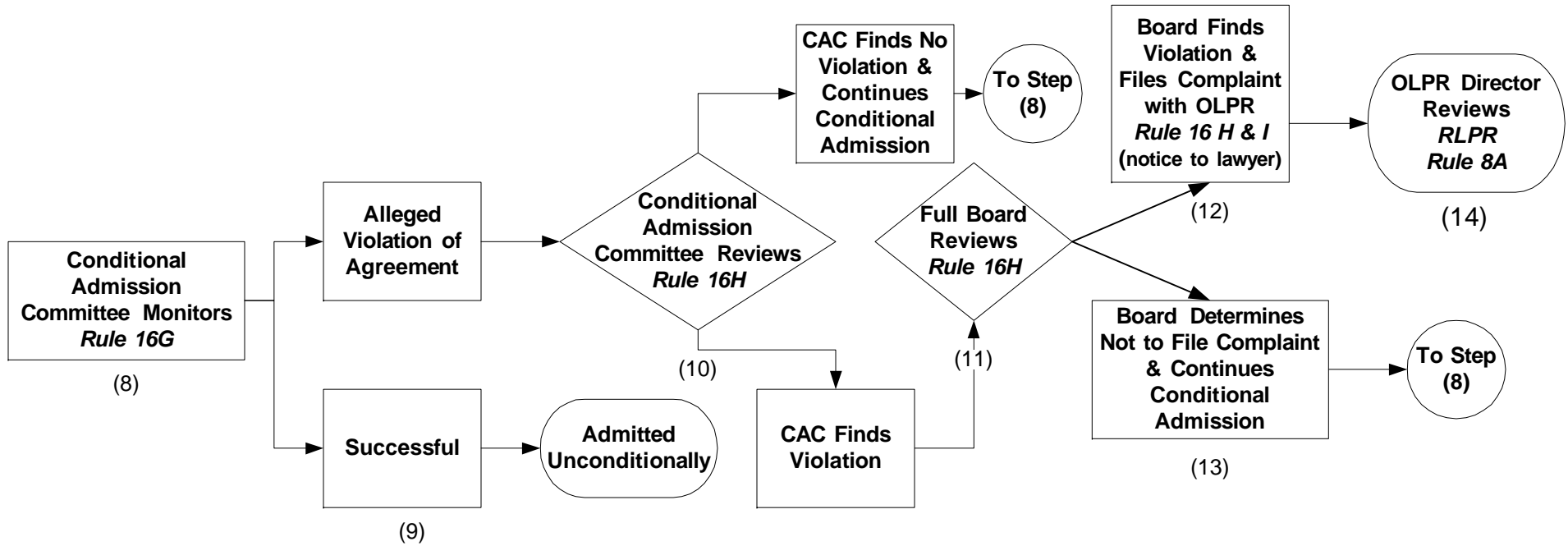
# APPLICATION PROCESS INCORPORATING CONDITIONAL ADMISSION



# APPLICATION PROCESS INCORPORATING CONDITIONAL ADMISSION



# APPLICATION PROCESS INCORPORATING CONDITIONAL ADMISSION



**STATE OF MINNESOTA**  
**RULES FOR ADMISSION TO THE BAR**

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## **RULE 1. PURPOSE**

The Board of Law Examiners is established to ensure that those who are admitted to the bar have the necessary competence and character to justify the trust and confidence that clients, the public, the legal system, and the legal profession place in attorneys lawyers.

## **RULE 2. DEFINITIONS AND DUE DATE PROVISIONS**

### **A. Definitions.** As used in these Rules:

~~(1) “Application file” means all information relative to an individual applicant to the bar collected by or submitted to the Board while the application is pending and during any conditional admission period.~~

~~(2) “Approved law school” means a law school provisionally or fully approved by the American Bar Association.~~

~~A.(3) “Board” means the Minnesota State Board of Law Examiners.~~

~~B.(4) “Court” means the Minnesota Supreme Court.~~

~~C.(5) “Director” means the staff director for the Board.~~

~~D.(6) “Good character and fitness” means traits, including honesty, trustworthiness, diligence and reliability, that are relevant to and have a rational connection with the applicant’s present fitness to practice law.~~

~~E. 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. Postmarks dated on the due date will be accepted.~~

~~(7) “Jurisdiction” means the District of Columbia or any state or territory of the United States.~~

~~F. “Approved law school” means a law school provisionally or fully approved by the American Bar Association.~~

~~G.(8) “Legal services program” means a program existing primarily for the purpose of providing legal assistance to indigent persons in civil or criminal matters.~~

~~H.(9) “Notify” or “give notice” means to mail or deliver a document to the last known address of the applicant or the applicant’s attorney~~lawyer~~. Notice is complete upon mailing, but extends the applicant’s period to respond by ~~3~~ three days.~~

~~I. “Jurisdiction” means the District of Columbia or any state or territory of the United States.~~

**B. Due Date Provisions.** Due dates specified under these Rules shall be strictly enforced and shall 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. Postmarks dated on the due date will be accepted.

## **RULE 3. 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. With the exception of the President, Board members may serve no more than three successive three-year terms. 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 ~~s~~Secretary from among its members.

**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 instruments that the Board finds valid and reliable in measuring the competence of applicants to practice law, and to pay reasonable compensation for them;
- (3) To employ examination graders;
- (4) To establish a minimum passing score for the examinations;
- (5) To conduct investigations of applicants' backgrounds 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 recommend to the Court the admission and licensure of applicants to practice law in Minnesota;
- ~~(6)~~(7) To administer these Rules and adopt policies and procedures consistent with these Rules;
- ~~(7)~~(8) To delegate to its President and Director authority to make necessary determinations to implement the Board's policies and procedures and these Rules;
- ~~(8)~~(9) To prepare and disseminate information to prospective applicants and the public about procedures and standards for admission to practice law in this state.

**C. Board Meetings.** Board meetings are open to the public except when the Board is considering the following:

- (1) ~~e~~Examination materials;
- (2) ~~a~~Any information concerning an applicant, ~~or~~ potential applicant, or conditionally admitted lawyer;
- (3) ~~p~~Personnel matters;
- (4) ~~a~~Any information which is confidential or private under Rule ~~13~~14;
- (5) ~~l~~Legal advice from its counsel.

Board members may attend meetings in person or, in extraordinary circumstances, by conference call. Minutes of the public portions of Board meetings are available upon request from the Board office.

**RULE 4. 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 as defined by these Rules;
- (3) Graduation with a 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 Rules ~~7(A)~~ 7(B), 8, 9, or 10;
- (5) A scaled score of 85 or higher on the Multistate Professional Responsibility Examination (MPRE); and

(6) Not currently suspended or disbarred from the practice of law in another jurisdiction.

**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.

**C. Application for Admission.** To be accepted as complete, an application must be submitted on a form prescribed by the Board together with the following:

~~(1) **Complete Application.** An applicant for admission shall file at the office of the Board an application on a form prescribed by the Board. To be accepted for filing, an application must include:~~

~~(a) The proper fee as indicated in Rule 11;~~

~~(b) Notarized affidavits of two persons unrelated to the applicant by blood or marriage and not fellow law students during the 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 character and general reputation and other such information which bears on the applicant's fitness to practice law;~~

~~(c) A notarized authorization for release of information on a form prescribed by the Board;~~

~~(d) For applicants seeking admission by examination, a passport-style photo.~~

(1) A fee in an amount prescribed by Rule 12;

(2) A notarized authorization for release of information form;

(3) For applicants seeking admission by examination, a passport-style photo;

(4) Two notarized affidavits of good character from persons who have known the applicant for at least one year and who:

- Are unrelated to the applicant by blood or marriage and not living in the same household; and
- Were not fellow law students during the applicant's enrollment.

The notarized affidavits of good character must address the following:

- The duration of time and circumstances under which the affiant has known the applicant;
- Details respecting the applicant's character and general reputation;
- Other information bearing on applicant's character and fitness to practice law.

**D.(2) Certificate of Graduation.** Each applicant shall file an original certificate of graduation from an approved law school stating that the applicant has graduated, or that the applicant has fulfilled all requirements for graduation and will be graduated within 120 days following the examination for which the applicant has applied. An applicant for admission by examination must also file the certificate or cause the certificate 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 has filed.

**E.(3) Additional Filing When Admitted Elsewhere.** An applicant who has been admitted to practice in another jurisdiction shall also file or cause to be filed at the time of the application:

- ~~(1)(a)~~ A certified copy of the application for admission to the Bar ~~in from~~ each jurisdiction in which the applicant ~~has~~ was previously ~~been~~ admitted to the practice of law;
- ~~(2)(b)~~ A certification showing the date of admission to the bar in each other jurisdiction;
- ~~(3)(c)~~ A certification from the proper authority in each jurisdiction stating that the applicant is in good standing; and
- (4) A certification from the proper authority in each jurisdiction indicating whether the applicant is the subject of a any pending complaint or charge of misconduct.

**F.(4) Professional Responsibility Test Scores. Applicants Without MPRE Score.** An applicant may file an application without having taken the Multistate Professional Responsibility Examination (MPRE); ~~However, the applicant shall not be admitted until he or she has submitted evidence of an MPRE submit a score report showing a scaled score of 85 or higher, on the Multistate Professional Responsibility Examination prior to being admitted. Such applicants must be admitted within 12 months of the date of a written notice from the Board or the application will be considered to have been withdrawn.~~

**G.(5) Repeat Examinee.** An applicant who has been unsuccessful on a prior Minnesota Bar Examination may reapply by submitting:

- ~~(1)(a)~~ A new application for admission pursuant to Rule 4 (C)(1);
- ~~(2)(b)~~ The proper fee under Rule 4412;
- ~~(3)(c)~~ A notarized authorization for release of information on a form prescribed by the Board;
- ~~(4)(d)~~ A passport-style photo;
- ~~(5)(e)~~ If the original application is more than two years old, new affidavits as described in Rule 4C(4) ~~(C)(1)(b)~~ of these Rules.

**H.(6) Incomplete Application.** An application determined to be incomplete shall be returned to the applicant.

**I.(7) Withdrawal of Application.** An applicant may withdraw the application by notifying the Board in writing at any time prior to the issuance of an adverse determination ~~by notifying the Board in writing.~~

- ~~(8) Strict Enforcement of Time Requirements. The time requirements set forth in these Rules shall be strictly enforced.~~

**J.D. Required Cooperation.**

- (1) An applicant has the duty to cooperate with the Board and the Director by timely complying with requests, including requests to:
  - (a) Provide complete information, documents and signed authorizations for release of information;
  - (b) Obtain reports or other information necessary for the Board to properly evaluate the applicant's fitness to practice;
  - (c) Appear for interviews to determine eligibility for admission or facilitate the background investigation.

- (2) An applicant shall not discourage a person from providing information to the Board or retaliate against a person for providing information to the Board;
- (3) An applicant who violates this rule may be denied an opportunity to test or may be denied admission.

## **RULE 5. STANDARDS FOR ADMISSION**

### **A. Essential Eligibility Requirements.** Applicants must meet the following essential eligibility requirements for the practice of law:

- (1) The ability to reason, recall complex factual information and integrate that information with complex legal theories;
- (2) The ability to communicate with clients, ~~attorneys~~ lawyers, courts, and others with a high degree of organization and clarity;
- (3) The ability to use good judgment on behalf of clients and in conducting one's professional business;
- (4) The ability to conduct oneself with respect for and in accordance with the law;
- (5) The ability to avoid acts which exhibit disregard for the rights or welfare of others;
- (6) The ability to comply with the requirements of the Rules of Professional Conduct, applicable state, local, and federal laws, regulations, statutes and any applicable order of a ~~C~~ourt or tribunal;
- (7) The ability to act diligently and reliably in fulfilling one's obligations to clients, ~~attorneys~~ lawyers, courts, and others;
- (8) The ability to use honesty and good judgment in financial dealings on behalf of oneself, clients, and others; and
- (9) The ability to comply with deadlines and time constraints.

### **B. Character and Fitness Standards and Investigation.**

- (1) Purpose. The purpose of the character and fitness investigation before admission to the Bar is to ~~assure the protection of~~ protect the public and to safeguard the justice system.
- (2) Burden of Proof. The applicant bears the burden of proving good character and fitness in support of the application.
- (3) Relevant Conduct. The revelation or discovery of any of the following shall be treated as cause for further inquiry before the Board determines whether the applicant possesses the character and fitness to practice law:
  - (a) ~~U~~nlawful conduct;
  - (b) ~~A~~cademic misconduct;
  - (c) ~~M~~isconduct in employment;
  - (d) ~~A~~cts involving dishonesty, fraud, deceit or misrepresentation;
  - (e) ~~A~~cts which demonstrate disregard for the rights or welfare of others;
  - (f) ~~A~~busive of legal process, including the filing of vexatious or frivolous lawsuits;
  - (g) ~~N~~eglect of financial responsibilities;
  - (h) ~~N~~eglect of professional obligations;
  - (i) ~~V~~iolation of an order of a court, including child support orders;

- (j) ~~C~~conduct that evidences current mental or emotional instability that may impair the ability to practice law;
  - (k) ~~C~~conduct that evidences current drug or alcohol dependence or abuse that may impair the ability to practice law;
  - (l) ~~D~~denial of admission to the Bar in another jurisdiction on character and fitness grounds;
  - (m) ~~D~~disciplinary action by a lawyer disciplinary agency or other professional disciplinary agency of any jurisdiction;
  - (n) ~~T~~he making of false statements, including omissions, on bar applications in this state or any other jurisdiction.
- (4) Considerations. The Board shall determine whether the present character and fitness of an applicant qualifies the applicant for admission. In making this determination, the following factors ~~should~~shall be considered in assigning weight and significance to prior conduct:
- (a) ~~T~~he applicant's age at the time of the conduct;
  - (b) ~~T~~he recency of the conduct;
  - (c) ~~T~~he reliability of the information concerning the conduct;
  - (d) ~~T~~he seriousness of the conduct;
  - (e) ~~T~~he factors underlying the conduct;
  - (f) ~~T~~he cumulative effect of the conduct or information;
  - (g) ~~T~~he evidence of rehabilitation;
  - (h) ~~T~~he applicant's positive social contributions since the conduct;
  - (i) ~~T~~he applicant's candor in the admissions process;
  - (j) ~~T~~he materiality of any omissions or misrepresentations.
- (5) Continuing Obligation. The applicant has a continuing obligation to update the application with respect to all matters inquired of on the application. This obligation continues during the pendency of the application, including the period when the matter is on appeal to the Board or the Court.
- (6) Determination. A character and fitness determination shall be made with respect to each applicant who is a successful examinee or who is qualified by practice for admission under these Rules. An adverse determination on character and fitness grounds may be appealed under Rule 4415.
- (7) Advisory Opinions.
- (a) A law student may request a written advisory opinion from the Board with respect to his or her character and fitness for admission by filing a completed application for admission, a fee in the amount required under Rule 12L, two notarized affidavits as required by Rule 4C(4), and an authorization for release of information as required by rule 4C(2). ~~the following:~~
    - (1) ~~A completed application for admission;~~
    - (2) ~~A fee in the amount required under Rule 1112;~~
    - (3) ~~Two notarized affidavits as required by Rule 4(C)(1)(b)4C(4);~~
    - (4) ~~An authorization for release of information as required by Rule 4(C)(1)(c)4C(2).~~
  - (b) Advisory opinions will not be binding on the Board.

## **RULE 6. ADMISSION BY EXAMINATION**

- A. Dates of Examinations.** Examinations shall be held the last Tuesday and Wednesday of the months of February and July each year, at a place to be determined by the Board.
- B. Timely Filing Deadlines.** An application for admission by examination shall be filed in the office of the Board by October 15 for the February examination, or by March 15 for the July examination.
- C. Late Filing Deadlines.** Late applications will be accepted on or before December 1 for the February examination, or on or before May 1 for the July examination but must be accompanied by the late filing fee pursuant to Rule 4012. No applications shall be accepted after the late filing deadline.
- D. Denial of Opportunity to Test.** An applicant may be denied permission to take an examination:
- (1) When ~~if~~ the applicant has failed to comply with the requirements of Rule 4 (C);  
or
  - (2) When ~~if~~ the Board has determined the applicant has not satisfied the good character and fitness requirement of Rule 4(A)(2).
- E. Scope of Examination.** The Minnesota Bar Examination shall consist of ~~the following:~~ six essay questions, the Multistate Bar Examination (MBE), and at least one performance test question.
- (1) ~~Essay and Multiple Choice Questions. The essay~~ Essay questions and multiple choice questions on any combination of ~~may include any of the following~~ subjects:
    - Administrative Law
    - Civil Procedure
    - Constitutional Law
    - Contracts
    - Criminal Law and Procedure
    - Ethics and Professional Responsibility
    - Evidence
    - Family Law
    - Federal Individual Income Taxation
    - Partnership, Proprietorship, and Corporations
    - Real Property
    - Torts
    - Uniform Commercial Code, Art. 1, 2
    - Wills, Estates and Trusts; ~~and~~
  - (2) ~~Performance Test. Commencing with the February 2001 examination, The~~ performance test shall include one or more questions to test testing the applicant's ability to perform a lawyering task using legal and factual materials provided.
- F. Testing Accommodations.** An applicant whose disability requires testing accommodations shall submit with the application a written request pursuant to the

Board's testing accommodations policy and shall describe:

- (1) The type of accommodation requested;
- (2) The reasons for the requested accommodation, including medical documentation in a format set forth in the policy referenced above.

The Board shall notify the applicant of its decision. A denial or modification of a request for testing accommodations constitutes an adverse determination of the Board and may be appealed pursuant to Rule 44~~15~~.

- G. 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 successful examination numbers will be posted at the Court, on the Board's website, and at each Minnesota law school. The date of the release shall be announced at the examination.
- H. Failing Examination Scores.** A failing score on the bar examination represents a final decision of the Board and does not afford the applicant the appeal and hearing rights set forth in Rule 44~~15~~.
- I. Stale Examination Scores.** A passing score on the Minnesota bar examination is valid for 24 months from the date of the examination. Applicants must be admitted within 24 months of the examination.

## **RULE 7. ADMISSION WITHOUT EXAMINATION**

- A. Eligibility by Practice.** An applicant may be eligible for admission without examination if the applicant otherwise qualifies for admission under Rule 4, and provides documentary evidence showing that for at least five of the seven years immediately preceding the application, the applicant has been licensed to practice law, has been in good standing in the highest court of another jurisdiction, and as principal occupation, has been actively and lawfully engaged in the practice of law as:
- (1) Aa sole practitioner;
  - (2) Aa member of a law firm, professional corporation or association;
  - (3) Aa judge in a court of record;
  - (4) A lawyer ~~an attorney~~ for any local or state governmental entity;
  - (5) ~~inside-House~~ counsel for a corporation, agency, association or trust department;
  - (6) A lawyer ~~an attorney~~ with the federal government or a federal governmental agency including service as a member of the Judge Advocate General's Department of one of the military branches of the United States; and/or
  - (7) Aa professor teaching full-time in any approved law school.
- The practice of law must have been in the jurisdiction where the applicant is licensed and during the period of licensure unless the practice falls under (6) or (7) above, or Rule 8F ~~of these Rules~~.
- B. Eligibility for Admission by Test Score.** An applicant may be eligible for admission without examination under Rule 4~~(A)~~(4) if the applicant has received a scaled score of 145 or ~~above~~ higher on the Multistate Bar Examination (MBE) 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 was subsequently admitted in that jurisdiction. The applicant shall submit evidence ~~Evidence~~ of the score and a completed application to the Board ~~must be~~



~~received at the office of the Board within 24 months of the date of the qualifying examination that is being used as the basis for the admission.~~

**C. Transfer of MBE Score.** An applicant seeking to transfer a MBE score achieved in another jurisdiction to Minnesota shall submit a written request for transfer to the National Conference of Bar Examiners.

**D. MBE Score Advisory.** Upon written request, the Director will advise an applicant or potential applicant who took and passed a bar examination in another jurisdiction whether or not his or her MBE score satisfies the requirements of Rule 7B.

Requests for score advisory shall include the following:

(1) Complete name and social security number of the examinee; and

(2) Month, year, and jurisdiction of test administration.

**C.E. No Waiver of Time Requirements.** The minimum time requirements and the timely filing requirements of this Rule shall be strictly enforced.

**D.F. Eligibility After Unsuccessful Examination.** An applicant may be eligible for admission without examination under this Rule notwithstanding a prior failure on the Minnesota Bar Examination.

**E.G. Ineligibility for Admission Without Examination.** Any person who holds himself or herself out as a licensed Minnesota attorney-lawyer or attempts to engage in the practice of law in Minnesota without first obtaining a license under these Rules is ineligible for admission without examination.

## **RULE 8. ADMISSION BY TEMPORARY LICENSE FOR LEGAL SERVICES PROGRAMS**

**A. Eligibility.** ~~An attorney~~ A lawyer licensed in another state, ~~or the District of Columbia,~~ jurisdiction may apply for and ~~obtain~~ be admitted under a temporary license to practice law in Minnesota when the applicant has accepted employment in Minnesota as ~~an attorney~~ a lawyer for a legal services program.

**B. Filing.** In order to qualify for the license, the ~~attorney-lawyer~~ must comply with the requirements of Rule ~~4(A)~~(1), (2), (3) and (6) and must file with the Board, the following:

(1) A completed application for temporary license to practice law in Minnesota for a legal services program;

(2) ~~A certificate of the highest court of the state of licensure~~ or certificates from the proper authority in each jurisdiction certifying that the ~~attorney-lawyer~~ is in good standing and that no charges of professional misconduct are pending;

(3) An affidavit from the applicant's employer attesting to ~~his/her~~ his or her knowledge of the applicant's competence and good character, and the fact that the applicant has accepted employment as ~~an attorney~~ a lawyer for a legal services program in Minnesota and will be supervised by a licensed Minnesota ~~attorney-lawyer~~;

(4) Two additional affidavits of character as prescribed by Rule ~~4(C)~~(1)4C(4), and a fee consistent with Rule ~~11(F)~~12G of these Rules.

**C. Certification of Applicant's Good Character and Fitness.** The office of the Board shall conduct an expedited character and fitness investigation and certify the applicant's good character and fitness prior to issuance of a license under this Rule.

- D. Limitation.** A license granted pursuant to this Rule shall authorize the attorney lawyer to practice solely on behalf of the indigent clients of the designated legal services program.
- E. Duration and Revocation.** This temporary license shall be valid for a period of no more than 15 months from the date of issuance. Upon notice to the Clerk of the Appellate Courts, the Board shall have authority to revoke a temporary license issued pursuant to this Rule upon the occurrence of any of the following:
- (1) The holder's admission to practice law in Minnesota pursuant to Rule 6 (Admission by Examination), Rule 7(A) (Eligibility by Practice) or 7(B) (Eligibility by Test Score);
  - (2) Termination of the holder's employment with the employer referred to in Rule 8B(3)7(B)(3);
  - (3) The lapse of 15 months from the date of issuance;
  - (4) The holder's failing failure of the Minnesota Bar Examination; or
  - (5) Issuance by the Board of an adverse determination relative to the applicant's character and fitness.
- F. 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 7(A).

## **RULE 9. ADMISSION BY TEMPORARY LICENSE FOR IN-HOUSE COUNSEL LICENSE**

- 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 11(E).~~
- C. Certification of the Applicant's Good Character and Fitness.** ~~An expedited character and fitness investigation will be conducted and the Director's initial certification of the applicant's good character and fitness made before issuance of a license pursuant to this Rule.~~

~~**D. Limitation.** A license granted pursuant to this Rule shall authorize the attorney to practice solely for the designated employer.~~

~~**E. Duration and Revocation.** This Temporary License shall be valid for a period of no more than twelve months from the date of issuance. Upon notice to the Clerk of Appellate Courts, the Board shall have authority to revoke a temporary license issued pursuant to this Rule upon the occurrence of any of the following:~~

- ~~— (1) The holder's admission to practice law in Minnesota pursuant to Rule 6 (Admission by Examination), Rule 7(A) (Eligibility by Practice) or Rule 7(B) (Eligibility by Examination Score);~~
- ~~— (2) Termination of holder's employment with the employer referenced in Rule 9(B)(3);~~
- ~~— (3) Issuance of an adverse determination pursuant to Rule 14(A).~~

**A. Practice by House Counsel.** A lawyer licensed in another jurisdiction shall not practice law in Minnesota as house counsel unless he or she is admitted to practice in Minnesota under this Rule, Rule 6 (Admission by Examination), Rule 7 (Admission Without Examination), or Rule 10 (Admission by House Counsel License).

**B. Eligibility.** A lawyer licensed in another jurisdiction may apply for and be admitted under a temporary house counsel license when the lawyer:

- (1) Is employed in Minnesota as house counsel 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; and
- (2) Has practiced law, as defined in Rule 7A, for at least three of the previous five years; and
- (3) Complies with the eligibility provisions of Rule 4A, with the exception of Rule 4A(5).

The practice of law must have been in the jurisdiction where the applicant is licensed and during the period of licensure unless the applicant, during the qualifying period, was practicing as house counsel for a corporation, agency, association or trust department.

**C. Requirements.** In order to qualify for the temporary house counsel license, the applicant shall comply with the requirements of these Rules and file the following with the Board:

- (1) An application for license to practice law in Minnesota;
- (2) A certificate or certificates from the proper authority in each jurisdiction certifying that the applicant is in good standing and listing any complaint of professional misconduct pending against the applicant;
- (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 house counsel solely for said employer, that applicant is an individual of good character, and that the nature of the employment meets the requirements of Rule 9B(1); and
- (4) A fee consistent with Rule 12F.

**D. Limitation.** A license issued pursuant to this Rule authorizes the holder to practice solely for the employer designated in the affidavit required by Rule 9C(3).

- E. Issuance of Temporary House Counsel License.** In order to facilitate issuance of the temporary license, an expedited character and fitness investigation will be conducted.
- F. Duration and Expiration of Temporary License.** The temporary license shall expire 12 months from the date of issuance, or sooner, upon the occurrence of any of the following:
- (1) Termination of the holder's employment with the employer referenced in Rule 9C(3); or**
  - (2) Admission to practice law in Minnesota pursuant to Rule 6 (Admission by Examination), Rule 7 (Admission Without Examination), or Rule 10 (Admission by House Counsel License); or**
  - (3) Issuance of an adverse determination pursuant to Rule 15A.**
- After expiration of a temporary house counsel license, the former license holder, unless already admitted to practice law in Minnesota under another of these Rules, shall not practice law in Minnesota or otherwise represent that he or she is admitted to practice law in Minnesota.**
- G. House Counsel License.** An applicant for or holder of a temporary house counsel license who anticipates practicing in Minnesota for more than 12 months should also apply for a house counsel license under Rule 10 or another license under these Rules.
- H. Notice of Termination of Employment.** A holder of a temporary house counsel license shall notify both the Board and the Office of Attorney Registration in writing within 10 business days of termination of employment with the employer referenced in Rule 9C(3).
- I. Re-Issuance of Temporary House Counsel License.** A temporary house counsel license that has expired due to termination of employment as described in Rule 9F(1) may be reissued at the Director's discretion within 90 days of the expiration of the license. The fee for re-issuance of the license shall be consistent with Rule 12M.
- J. Credit for Admission Without Examination.** Time in the practice of law under the temporary house counsel license may be counted toward eligibility for admission without examination under Rule 7A.
- K. Professional Conduct and Responsibility.** A lawyer licensed under this Rule shall abide by and be subject to all laws and rules governing lawyers admitted to the practice of law in this state.

## **RULE 10. ADMISSION BY HOUSE COUNSEL LICENSE**

- A. Practice by House Counsel.** A lawyer licensed in another jurisdiction shall not practice law in Minnesota as house counsel unless he or she is admitted to practice in Minnesota under this Rule, Rule 6 (Admission by Examination), Rule 7 (Admission Without Examination), or Rule 9 (Admission by Temporary House Counsel License).
- B. Eligibility and Requirements.** A lawyer licensed in another jurisdiction or the holder of a temporary house counsel license issued pursuant to Rule 9B and 9C, who intends to practice in Minnesota for more than 12 months, may apply for a

house counsel license upon submission of evidence of:

- (1) Compliance with eligibility and other requirements set forth in Rule 9; and
- (2) A scaled score of 85 or higher on the Multistate Professional Responsibility Examination.

**C. Limitation.** A license issued pursuant to this Rule authorizes the holder to practice solely for the employer designated in the Rule 9C(3) affidavit.

**D. Expiration of House Counsel License.** The house counsel license shall expire upon termination of the holder's employment with the employer referenced in Rule 9C(3). After a house counsel license expires, the former license holder, unless already admitted to practice law in Minnesota under another of these Rules, shall not practice law in Minnesota or otherwise represent that he or she is admitted to practice law in Minnesota.

**E. Notice of Termination of Employment.** A house counsel license holder shall notify both the Board and the Office of Attorney Registration in writing within 10 business days of termination of employment with the employer referenced in Rule 9C(3).

**F. Re-Issuance of House Counsel License.** A house counsel license that has expired due to termination of holder's employment as described in Rule 10D may be reissued at the Director's discretion within 90 days of the expiration of the license. The fee for re-issuance shall be consistent with Rule 12M.

**G. Credit for Admission Without Examination.** Time in the practice of law under the house counsel license may be counted toward eligibility for admission without examination under Rule 7A.

**H. Professional Conduct and Responsibility.** A lawyer licensed under this Rule shall abide by and be subject to all laws and rules governing lawyers admitted to the practice of law in this state.

## **RULE 10.11. LICENSE FOR FOREIGN LEGAL CONSULTANTS**

**A. Eligibility.** A person who is admitted to practice in a foreign country as ~~an attorney~~ a lawyer or counselor at law may apply for, and at the discretion of the Board of Law Examiners, may obtain a license to render services as a foreign legal consultant in the State of Minnesota, without examination, subject to the limitations set forth in this Rule.

**B. Requirements.** In order to qualify for the license the applicant must:

- (1) ~~H~~have been admitted to practice in a foreign country as ~~an attorney~~ a lawyer or counselor at law or the equivalent; and
- (2) ~~A~~as principal occupation, have been engaged in the practice of law of that country in that country for at least five of the seven years immediately preceding the application; and
- (3) ~~B~~be in current good standing as ~~an attorney~~ a lawyer or counselor at law or the equivalent in that country, and have remained in good standing throughout the period of ~~his/her~~ his or her practice; and
- (4) ~~P~~possess the good character and fitness required for admission to practice in this state; and
- (5) ~~B~~be at least 24 years of age; and

(6) ~~M~~aintain an office in the ~~s~~State of Minnesota for the rendering of services as a foreign legal consultant.

**C. Applications.** In order to qualify for the foreign legal consultant license, an applicant must file with the Minnesota Board of Law Examiners the following documents, together with duly authenticated English translations, if they are not in English:

- (1) ~~A~~a sworn and notarized typewritten Application for Foreign Legal Consultant License;
- (2) ~~A~~a duly authenticated certificate from the authority having final jurisdiction over professional discipline in the foreign country in which the applicant is admitted to practice, which shall be accompanied by the official seal, if any, of such authority, and which shall certify:
  - (a) ~~T~~he authority's jurisdiction in such matters;
  - (b) ~~T~~he applicant's admission to practice in such foreign country, the date of admission, and the applicant's good standing as ~~an attorney~~ a lawyer or counselor at law or the equivalent in that jurisdiction;
- (3) ~~A~~a duly authenticated document from any foreign country or jurisdiction in which said consultant has been licensed as ~~an attorney~~ a lawyer or as a foreign legal consultant indicating whether any charge or complaint has ever been filed against the applicant with such authority, if so, the substance of each such charge or complaint, and the adjudication or resolution of each such charge or complaint;
- (4) ~~A~~a letter or recommendation signed by, and accompanied with the official seal, if any, of one of the members of the executive body of such authority or from one of the judges of the highest court of law of such foreign country, certifying to the applicant's professional qualifications;
- (5) ~~A~~a summary of the law or rule, if any, of such foreign country which permits members of the ~~bar of Minnesota~~ Bar to establish offices for the giving of legal advice to clients in such foreign country;
- (6) ~~L~~etters of recommendation from at least three attorneys or counselors at law or the equivalent admitted in and practicing in such foreign country, setting forth the length of time, and under what circumstances they have known the applicant and stating their appraisal of the applicant's good character and fitness for admission;
- (7) ~~N~~otarized letters of recommendation from at least two members in good standing of the Minnesota Bar, setting forth the length of time, and under what circumstances they have known the applicant and their appraisal of the applicant's good character and fitness for admission;
- (8) ~~S~~uch other evidence as to the applicant's educational and professional qualifications, good character and fitness and compliance with the requirements of this rule as the Minnesota Board of Law Examiners may require; and
- (9) ~~A~~a fee in the amount of \$1,000, in the form of a certified check or money order.

**D. Investigation.** The Minnesota Board of Law Examiners shall conduct such investigation into the applicant's background and verification of supporting documents as the Board may deem appropriate or necessary in the circumstances.

**E. Scope of Practice.** A person licensed as a foreign legal consultant under this rule may render legal services in the State of Minnesota regarding the laws of the

country in which such person is admitted to practice as an ~~attorney~~ a lawyer, counselor at law or equivalent. The foreign legal consultant shall not, however, conduct any activity or render any services constituting the practice of the law of the United States, the State of Minnesota, or that of any other state, commonwealth or territory of the United States or the District of Columbia including, but not limited to, the restrictions that such person shall not:

- (1) ~~A~~ Apppear for another person as ~~attorney~~ a lawyer in any court or before any magistrate or other judicial officer or before any federal, state, county or municipal governmental agency, quasi-judicial or quasi-governmental authority in the State of Minnesota, or prepare pleadings or any other papers in any action or proceedings brought in any such court or before any such judicial officer, except as authorized in any rule or procedure relating to admission pro hac vice, or pursuant to administrative rule;
- (2) ~~P~~ Provide legal advice in connection with the preparation of any deed, mortgage, assignment, discharge, lease, agreement of sale or any other instrument affecting title to:
  - (a) ~~R~~ Rreal property located in the United States of America;
  - (b) ~~P~~ Personal property located in the United States of America, except where the instrument affecting title to such personal property is governed by the law of a jurisdiction in which the foreign legal consultant is admitted to practice as an ~~attorney~~ a lawyer or counselor at law or the equivalent;
- (3) ~~P~~ Prepare:
  - (a) ~~A~~ Any will or trust instrument affecting the disposition of any property located in the United States of America and owned by a resident thereof;
  - (b) ~~A~~ Any instrument relating to the administration of a decedent's estate in the United States of America;
- (4) ~~P~~ Prepare any instrument in respect of the marital relations, rights or duties of a resident of the United States of America or the custody or care of the children of such a resident;
- (5) ~~R~~ Render professional legal advice on the law of the State of Minnesota or the United States of America or any other state, subdivision, commonwealth or territory of the United States of America or the District of Columbia (whether rendered incident to the preparation of a legal instrument or otherwise);
- (6) ~~I~~ In any way represent that such person is admitted to the Bar of the State of Minnesota or is licensed as an ~~attorney~~ a lawyer or foreign legal consultant in another state, territory or the District of Columbia, or as an ~~attorney~~ a lawyer or counselor at law or the equivalent in a foreign country, unless so licensed;
- (7) ~~U~~ Use any title other than "Foreign Legal Consultant, Not Admitted to Practice Law in Minnesota", provided that such person's authorized title and firm name in the foreign country in which such person is admitted to practice as ~~attorney~~ a lawyer or counselor at law or the equivalent may be used if the title, firm name, and the name of such foreign country are stated together with the above-mentioned designation;
- (8) ~~R~~ Render any legal services for a client without utilizing a written retainer agreement which shall specify in bold type that the foreign legal consultant is not admitted to practice law in the State of Minnesota, nor licensed to advise on the

laws of the United States or the District of Columbia, and that the practice of the foreign legal consultant is limited to the laws of the foreign country where such person is admitted to practice as ~~an attorney~~ a lawyer or counselor at law or the equivalent; or

- (9) ~~H~~old any client funds or valuables without entering into a written retainer agreement which shall specify in bold type the name of a Minnesota licensed ~~attorney~~ in good standing who is also representing the particular client in the particular matter at hand.

#### **F. Disciplinary Provisions.**

- (1) A foreign legal consultant is expressly subject to the Minnesota Rules of Professional Conduct and to continuing review of qualifications to retain any license granted hereunder, and shall be subject to the disciplinary jurisdiction of the Minnesota Office of Lawyers Professional Responsibility and the Minnesota Supreme Court.
- (2) Section 1 above shall not be construed to limit in any way concurrent disciplinary procedures to which the foreign legal consultant may be subject in the country of admission.
- (3) A foreign legal consultant shall execute and file with the Board of Law Examiners, in such form and manner as the court prescribes:
- (a) ~~A~~ statement that the foreign legal consultant has read, understood, and made a commitment to observe the Minnesota Rules of Professional Conduct; and
- (b) ~~E~~ither:
- (1) ~~A~~n undertaking or appropriate evidence of professional liability insurance, in such amount as the Minnesota Supreme Court may prescribe, to assure such foreign legal consultant's proper professional conduct and responsibility; or
- (2) ~~A~~n appropriate undertaking in the amount of \$50,000.00 in the form of a bond, letter of credit or other financial guaranty instrument issued by a reputable financial institution based in, and authorized to do business in, the United States of America or any state therein for the purpose of assuring the foreign legal consultant's proper professional conduct and responsibility; and
- (c) ~~A~~ duly acknowledged instrument in writing setting forth such foreign legal consultant's address within the State of Minnesota and designating the Clerk of the Appellate Courts as agent for the service of process for all purposes; and
- (d) ~~A~~ commitment to notify the Minnesota Board of Law Examiners of any resignation or revocation of such foreign legal consultant's admission to practice in the foreign country of admission, or in any other state or jurisdiction in which the foreign legal consultant has been licensed as ~~an attorney~~ a lawyer or counselor at law or equivalent or as a foreign legal consultant, or of any censure, suspension, or expulsion in respect of such admission.



### **G. Annual Certification and Renewal Fees.**

- (1) A foreign legal consultant shall submit on a biennial basis to the Minnesota Board of Law Examiners:
  - (a) ~~A~~ a sworn statement attesting to ~~his/her~~ his or her continued good standing as ~~an attorney a lawyer~~ or counselor at law or equivalent in the foreign country in which he/she is admitted to practice;
  - (b) ~~A~~ a fee in the amount of \$200.
- (2) The foreign legal consultant shall submit on an annual basis to the Minnesota Attorney Registration office ~~an attorney a lawyer~~ registration fee equivalent to the renewal fees paid by Minnesota licensed attorneys pursuant to the Rules of the Supreme Court for Registration of Attorneys.

### **RULE 11.12. FEES**

**A. General.** ~~All application~~ Application fees or other fees required under these ~~Rules~~ shall be paid by ~~certified personal check, or money order or bank draft~~ payable to the Board. ~~All other fees and charges may be paid by personal check or money order.~~ The applicable fee is determined as of the date of filing of a complete application under Rule 4.

**B. Fee for Examination, Not Previously Admitted.** An applicant who meets the following criteria shall submit a fee of \$400:

- (1) Applying to take taking the Minnesota examination for the first time; and
- (2) Not admitted to practice in another jurisdiction; and
- (3) Filing on or before the timely filing deadline (October 15 for the February examination, or ~~on or before~~ March 15 for the July examination), shall submit a fee of \$400.

An application applicant meeting the above criteria who files after the timely filing deadline but before the late filing deadline for the examination submitted after the timely filing date but on or before (December 1 for the February examination, or ~~on or before~~ May 1 for the July examination), shall include submit a fee of \$550. Applications will not be accepted after the late filing deadline.

**C. Fee for Examination, Prior Admission.** An applicant who meets the following criteria shall submit a fee of \$750:

- (1) Licensed to practice in another jurisdiction more than six months prior to the date of the applicant's Minnesota examination application; and
- (2) Filing timely, on or before the timely filing deadline (October 15 for the February examination, or March 15 for the July examination). shall submit a fee of \$750.

An application applicant for examination submitted after the timely filing date meeting the above criteria who files after the timely filing deadline but before the late filing deadline (but on or before December 1 for the February examination, or ~~on or before~~ May 1 for the July examination), shall include submit a fee of \$900. Applications will not be accepted after the late filing deadline.

**D. Exception for Recently Admitted Applicants.** An applicant licensed to practice in another jurisdiction less than six months prior to the date of the applicant's Minnesota examination application, shall ~~comply with~~ submit the fee required by paragraph B of this Rule.

**~~D.E.~~ Repeat Examinations.** An applicant who ~~previously has been~~ was unsuccessful on the Minnesota examination and is filing on or before December 1 for the February examination, or on or before May 1 for the July examination, shall ~~include~~ submit a fee of \$400 and comply with Rule ~~4C(8)(C)(5)~~.

**~~E.F.~~ Fee for Admission Without Examination.** An applicant for admission without examination pursuant to Rule 7(Admission Without Examination) or Rule 10 (Admission by House Counsel License) shall submit a fee of \$750. An applicant for admission pursuant to Rule 9 (Admission by Temporary House Counsel License) shall submit a fee of ~~\$950~~\$500.

**~~F.G.~~ Fee for Temporary License for Legal Services Program Practice.** A fee in the amount of \$75 must accompany an application for Temporary License pursuant to Rule 8. Payment of an additional fee, as required by Rule ~~12B14(B)~~, will qualify applicants under Rule 6. Payment of an additional fee, as required by Rule ~~12C14(C)~~, will qualify applicants under Rule ~~7(A)~~ or ~~7(B)~~.

**~~G.H.~~ Transfer of Rule 8 Application to Rule 6 or Rule 7 Application.** Documents submitted in support of a Rule 8 (Temporary License for Legal Services Programs) application for license may, upon the written request of applicant, constitute application pursuant to Rule 6 (Admission by Examination) or Rule 7 (Admission Without Examination) of these Rules, provided additional fees required by Rule ~~1214~~ are submitted.

**~~H.I.~~ Refunds of Fees.** A refund in the amount of \$125 will be made in the following circumstances:

- (1) When an applicant for the bar examination advises the Board in writing at least four days prior to an examination of the applicant's desire to withdraw the application;
- (2) When an applicant for the bar examination is denied permission to take an examination due to failure to provide a certificate of graduation required by Rule ~~4D(C)(2)(a)~~.

No other requests for refund will be granted.

**~~I.J.~~ Carry-over of Fees.**

- (1) Ineligible Rule 7 Applicants. The fee of an applicant declared ineligible under Rule 7 (Admission Without Examination) 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, other than those provided for in the following paragraph, shall be granted.
- (2) Medical Emergencies. An applicant who is unable to sit for the examination due to a medical emergency and who notifies the Board prior to the examination, may request carry-over of the application fee to the next examination. Such requests must be made in writing and be accompanied by written documentation of the medical emergency and a fee of \$50.

**~~J.~~ Transfer of Examination Scores.** A request for transfer of scores pursuant to Rule ~~6(H)~~ shall ~~include a fee of \$25~~. A score report may be obtained by submitting payment of \$25 to the National Conference of Bar Examiners.

**~~K.~~ Copies of Examination Answers.** An unsuccessful applicant ~~will receive~~ may request copies of the applicant's essay answers, ~~upon written request to the Board accompanied by a fee of \$20 and~~ The request shall be in writing, submitted within

60 days of the release of the examination results, and accompanied by a fee of \$20.

~~L. **Other Fees.** The Board may require an applicant to bear the expense of obtaining reports or other information necessary for the Board's investigation. The Board may charge reasonable fees for collection and publication of any information permitted to be released. For matters not covered in these Rules, the Director may set reasonable fees which reflect the administrative costs associated with the service.~~

**M.L. Fees for Advisory Opinions.** An application filed for the purpose of receiving an advisory opinion from the Board must be accompanied by a fee in the amount of \$100.

**M. Fee for Reissuance of Temporary House Counsel or House Counsel License.** An applicant for re-issuance of a temporary house counsel license under Rule 9I or house counsel license under Rule 10F shall submit a fee of \$275.

~~N. **Other Fees.** The Board may require an applicant to bear the expense of obtaining reports or other information necessary for the Board's investigation. The Board may charge reasonable fees for collection and publication of any information permitted to be released. For matters not covered in these Rules, the Director may set reasonable fees which reflect the administrative costs associated with the service.~~

#### **RULE 12-13. IMMUNITY**

**A. Immunity of the Board.** The Board and its members, employees, ~~and agents,~~ and monitors of conditionally admitted lawyers are immune from civil liability for conduct and communications relating to their duties under these Rules or the Board's policies and procedures.

**B. Immunity of Persons or Entities Providing Information to the Board.** Any person or entity providing to the Board or its members, employees, ~~or agents,~~ or monitors, any information, statements of opinion, or documents regarding an applicant, ~~or potential applicant,~~ or conditionally admitted lawyer, is immune from civil liability for such communications.

#### **RULE 13-14. ~~INFORMATION DISCLOSURE~~ CONFIDENTIALITY AND RELEASE OF INFORMATION**

**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. Such review must take place within 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. Work Product.** The Board's work product shall not be produced or otherwise discoverable, nor shall any member of the Board or its staff be subject to deposition or compelled testimony except upon a showing of extraordinary circumstance and compelling need and upon order of the Court. In any event, the mental impressions, conclusions, and opinions of the Board or its staff shall be protected and not subject to compelled disclosure.

### C. Examination Data.

- (1) Statistics. Statistical information relating to examinations and admissions may be released at the discretion of the Board.
- (2) ~~Transferability of Examination Scores~~MBE Score Advisory. The Director may advise an examinee whether an examination score is sufficient under the rules of a jurisdiction, upon written request of the 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. release individual MBE scores as provided in Rule 7D.
- (3) ~~Disclosure of Examination Scores~~Transfer of MBE Score. The scores of an examinee may be disclosed:
  - (a) ~~Upon written request of the examinee and payment of the fee under Rule 11(J), to the bar admission authority of a~~another jurisdiction; upon the examinee's written request to the National Conference of Bar Examiners (NCBE).
  - (b) ~~At the discretion of the Board, to the law school from which the examinee graduated;~~
- (4)(c) Release of Examination Scores and Essays to Unsuccessful Examinees. ~~To an unsuccessful examinee, the~~The Director may release to an unsuccessful examinee the scores assigned to each of the various portions of the examination; and, upon payment of the fee specified by Rule 12K, the Director may release copies of an unsuccessful examinee's copies of answers to the essays questions pursuant to Rule 11(K).
- (5) Release of Examination Scores to Law Schools. At the discretion of the Board, the examination scores of an examinee may be released to the law school from which the examinee graduated.

### D. Release of Information to Other Agencies. Information may be released to the following:

- (1) Any authorized lawyer disciplinary agency;
- (2) Any bar admissions authority; or
- (3) ~~to~~ Persons or other entities in furtherance of the character and fitness investigation.

### E. Referrals. Information relating to the misconduct of an applicant may be referred to the appropriate authority.

### F. Confidentiality. Subject to the exceptions ~~contained in Rule 3(C) and this rule in~~ this Rule, all other information contained in the files of the office of the Board is confidential and shall not be released to anyone other than the Court except upon order of the Court.

## **RULE 14.15. ADVERSE DETERMINATIONS AND HEARINGS**

### **A. Adverse Determination.** When an adverse determination relating to an applicant's character, fitness or eligibility is made by the Board, the Director shall notify the applicant of the determination, the reasons for the determination, the right to request a hearing, the right to be represented by counsel, and the right to present witnesses and evidence.

- B. Request for Hearing.** Within 20 days of notice of an adverse determination, the applicant may make a written request for a hearing. If the applicant does not timely request a hearing, the adverse determination becomes the final decision of the Board.
- C. Scheduling of Hearing.** The Board shall schedule a hearing upon receipt of the applicant's request for a hearing. At least 30 days prior to the hearing, the Board shall notify the applicant of the time and place.
- D. Proceedings.** ~~In~~ At the discretion of the Board President, the hearing may be held before the full Board, before a sub-committee of the Board appointed by the President, or before a hearing examiner appointed by the President. The Board may employ special counsel. The hearing shall be recorded and a transcript shall be provided to the applicant on request at a reasonable cost.
- E. Pre-Hearing Conference.** The Board President or designee shall conduct a prehearing conference to address procedural issues. Unless the President or designee orders otherwise, Board counsel and the applicant shall exchange exhibit lists, ~~and~~ the names and addresses of witnesses and any stipulations concerning proposed findings of fact, conclusions of law, or a proposed final decision at least ten days before the hearing.
- F. Subpoenas.** Upon written authorization of the Board President or designee, the applicant and Board counsel may subpoena evidence and witnesses for the hearing. The District Court of Ramsey County shall issue subpoenas.
- G. Continuances.** A written request for a continuance of a scheduled hearing shall be heard by the Board President or designee, who shall grant such request only upon a showing of good cause.
- H. Final Decision.** Following the hearing, the Board shall notify the applicant of its findings of fact, conclusions of law and final decision.

**RULE 16. CONDITIONAL ADMISSION.**

- A. Conditional Admission.** Following a Rule 15 hearing, the Board, with the consent of the applicant, may recommend to the Court that the applicant be admitted on a conditional basis.
- B. Circumstances Warranting Conditional Admission.** An applicant whose record shows conduct that may otherwise warrant denial, may consent to be admitted subject to certain terms and conditions set forth in a conditional admission consent agreement. Only an applicant whose record of conduct at the time of the Rule 15 hearing evidences a commitment to rehabilitation and an ability to meet the essential eligibility requirements of the practice of law as set forth in Rule 5A may be considered for conditional admission.
- C. Consent Agreement.** The consent agreement shall set forth the terms and conditions of conditional admission, shall be signed by the President or designee and by the applicant, and shall be made a part of the conditionally admitted lawyer's application file. The consent agreement shall remain confidential subject to the provisions of these Rules and of the Rules on Lawyers Professional Responsibility.
- D. Transmittal to the Office of Lawyers Professional Responsibility.** A list of conditionally admitted lawyers shall be transmitted to the Office of Lawyers Professional Responsibility (OLPR). In the event a complaint of unprofessional

conduct or violation of the consent agreement is filed against the conditionally admitted lawyer, the application file shall be transmitted to the OLPR upon the request of that office.

- E. Length of Conditional Period.** The initial conditional admission period shall not exceed 24 months, unless a complaint for a violation of the consent agreement or a complaint of unprofessional conduct has been filed with the OLPR. The filing of such a complaint shall extend the conditional admission until disposition of the complaint by the OLPR.
- F. Failure to Fulfill the Conditional Terms.** Failure to fulfill the terms of the consent agreement may result in the suspension or revocation of the conditional admission license, or such other action as is appropriate under the Rules on Lawyers Professional Responsibility.
- G. Monitoring of Consent Agreement by Conditional Admission Committee.** During the conditional admission period, the conditionally admitted lawyer's compliance with the terms of the consent agreement shall be monitored by a Conditional Admission Committee (CAC), a committee of three Board members appointed by the President. The CAC shall conduct such investigation and take such action as is necessary to monitor compliance with the terms of the consent agreement, including, but not limited to, requiring the conditionally admitted lawyer to:
  - (1)submit written verification of compliance with conditions;
  - (2)appear before the CAC; and
  - (3)respond to any requests for evidence concerning compliance.
- H. Violation of Consent Agreement.** If the CAC finds that a term or terms of the consent agreement have been violated, the President shall convene the Board for the purpose of determining whether to file a complaint with OLPR. The Board shall notify the conditionally admitted lawyer of the Board's decision if a complaint is filed.
- I. Complaint for Violation of Consent Agreement; Disposition of Complaint.** Any complaint for violation of the consent agreement filed with the OLPR shall set forth the basis for finding that a term or terms of the consent agreement have been violated.

#### **RULE 15.—17. APPEAL TO THE SUPREME COURT**

- A. Petition for Review.** Any applicant who is adversely affected by a final decision of the Board may appeal to the Court by filing a petition for review with the Clerk of Appellate Courts within 20 days of receipt by the applicant of a final decision of the Board together with proof of service of the petition on the Director 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.
- B. Board Response.** Within 20 days of service of the petition, the Board shall serve and file a response to the petition and a copy of the final decision of the Board. Thereupon the Court shall give such directions, hold such hearings and make such order as it may in its discretion deem appropriate.

### **~~RULE 16.~~ 18. REAPPLICATION AFTER DENIAL**

~~After expiration of the time for appeal allowed in Rule 14(B) or Rule 15(A), or after denial of petition by the Court, an applicant determined not to have satisfied the character and fitness requirement is prohibited from reapplying for admission to practice in Minnesota for three years from the date of the Board's adverse determination.~~

An applicant determined not to have satisfied the character and fitness requirement is prohibited from reapplying for admission to practice in Minnesota for three years from the date of the Board's adverse determination. An applicant whose conditional admission license has been revoked is prohibited from reapplying for admission for three years from the date of the revocation.

### **~~RULE 17.~~ 19. 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 Minnesota law schools to consult with the Board on matters of general policy concerning admissions to the ~~B~~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 and shall serve for terms of three years.