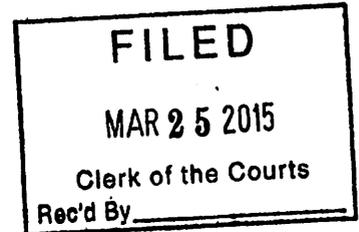


IN THE SUPREME COURT OF TENNESSEE  
AT NASHVILLE

IN RE AMENDMENT OF RULES 6, 7, AND 8 (RPC 5.5),  
RULES OF THE TENNESSEE SUPREME COURT

\_\_\_\_\_  
No. ADMIN2015-00443  
\_\_\_\_\_



**ORDER**

On March 12, 2015, the Tennessee Board of Law Examiners (the "TBLE") filed a petition seeking to amend Tennessee Supreme Court Rules 6, 7, and 8 (RPC 5.5), which govern the admission and licensing of attorneys in this State. The TBLE states that the proposed amendments are necessary: (1) to ensure internal consistency throughout these rules; (2) to ensure that these rules are consistent with relevant statutory provisions and with the TBLE's policies and procedures, which have been approved by this Court; and (3) to expand the provisions of the rules related to licensing of attorneys admitted in other jurisdictions in consideration of the increased mobility and relocation of lawyers. The TBLE's proposed amendments are set out in the attached Appendix.

The Court hereby solicits written comments from judges, lawyers, bar associations, members of the public, and any other interested parties concerning the TBLE's proposed amendments. The deadline for submitting written comments is July 31, 2015. Written comments should be addressed to:

James Hivner, Clerk  
Re: TBLE Petition  
100 Supreme Court Building  
401 7th Avenue North  
Nashville, TN 37219-1407

and should include the docket number set out above.

The Clerk shall provide a copy of this order to LexisNexis and to Thomson Reuters. In addition, this order, including the Appendix, shall be posted on the Tennessee Supreme Court's website.

IT IS SO ORDERED.

PER CURIAM

*APPENDIX*

**TENNESSEE BOARD OF LAW EXAMINERS'**

**"PETITION TO AMEND TENNESSEE SUPREME COURT RULES 6, 7  
and 8, (RPC 5.5) GOVERNING ADMISSION AND LICENSING OF  
ATTORNEYS"**

**Supreme Court Docket No. ADM2015-00443  
(filed March 12, 2015)**

IN THE SUPREME COURT OF TENNESSEE  
AT NASHVILLE

FILED  
2015 MAR 12 PM 2:54

APPELLATE COURT CLERK  
NASHVILLE

IN RE: PETITION TO AMEND )  
TENNESSEE SUPREME COURT )  
RULES 6, 7 and 8, RPC 5.5 )

No.: ADM2015-00443

PETITION TO AMEND TENNESSEE SUPREME COURT  
RULES 6, 7 and 8 (RPC 5.5) GOVERNING  
ADMISSION AND LICENSING OF ATTORNEYS

The Tennessee Board of Law Examiners (the "TBLE") hereby respectfully petitions this Honorable Court to amend Tennessee Supreme Court Rule 6 ("Rule 6") and Tennessee Supreme Court Rule 7 ("Rule 7"), and Tennessee Supreme Court Rule 8, RPC 5.5, to make the provisions consistent with provisions of the Tennessee Code and the Policies and Procedures of the TBLE that have been approved by the Court, make stylistic and numbering changes, and resolve conflicts between provisions in the Rules. Further, the TBLE proposes to expand the provisions of the Rules related to licensing of attorneys admitted in other jurisdictions. In support of its Petition, The TLBE would respectfully show as follows:

1. **Background:** Much of Rule 7 was amended by order filed August 23, 1993, and entered nunc pro tunc effective October 1, 1992; the amendment replaced Articles I – VIII. Since that time, a few provisions have been added or modified related to conditional admission, the content of the exam, and term

limits for Board members, assistants and committee members; the provisions regarding residency and intent to practice were deleted from Article VIII.

Many of the provisions within Rule 7 conflict with provisions within Rule 6, Rule 7, Rule 8 and provisions of the Tennessee Code. Additionally, the process employed by the TBLE regarding the submission of applications has changed to an electronic process, making many of the provisions of Rule 7 obsolete. Lastly, in December, 2009, T.C.A. § 23-1-108, was amended to require attorneys to be licensed and to take the oath of admission in order to engage in the practice or business of law in Tennessee. Tennessee Supreme Court Rule 6 and Rule 7 have not been amended to incorporate this requirement, although a process has been implemented to require the oath of admission prior to the issuance of the permanent law license.

Tennessee has seen a steady increase in the number of attorneys licensed in other states relocating to Tennessee. In addition to the mostly procedural changes reference above, the TBLE finds that several provisions in current Rule 7 regarding the licensing of attorneys who are licensed in other jurisdictions do not take into consideration the increased mobility and relocation of lawyers, making Tennessee a less attractive option for many attorneys. As such, the TBLE recommends amending Rule 7, Article V and Sec. 10.04, to allow practice pending admission available to all applicants while an application is pending.

Moreover, many attorneys who relocate to Tennessee as In-House Counsel mis-read Rule 8, RPC 5.5, interpreting subsection (d) as permission to practice without requiring a Tennessee license. Although a Tennessee license is not required, In-House Counsel must register pursuant to Rule 7, Sec. 10.01. This is stated in the comments to RPC 5.5 but frequently is overlooked. The TBLE proposes another amnesty period, during which the TBLE will work to educate corporations and In-House Counsel regarding the registration requirements and, additionally, proposes a change to Rule 8, RPC 5.5 to move the language of Comment 17 to RPC 5.5(d), as subparagraph (d)(3).

## **2. Proposed Changes**

**i)** *Rule 6.* The changes clarify that the Oath of Admission is required and include modifications to incorporate the need for a Certificate of Eligibility issued by the TBLE when taking the Oath of Admission.

**ii)** *Rule 7, Articles I and IX regarding Licensing and Admission.*

To clarify the distinction between licensing and admission and set forth the procedure for admission upon approval for licensing, Articles I and IX have been revised to include the intermediate step of the Certificate of Eligibility and the cross-reference to the Oath of Admission requirement in Rule 6.

**iii)** *Rule 7, Article II.* Although the undergraduate educational requirements have not changed, the programs offered by many universities now include programs with joint degrees that do not offer a

bachelor's degree but a higher degree only. In order to clarify the requirements, undergraduate and law school educational requirements have been separated into different sections, with each section including the specifics of the documentation required for proof of the education received. Graduates of ABA accredited schools or law schools in Tennessee approved by the Board are eligible for examination without change. However, the TBLE notes that, although Tennessee allows one educated outside the United States to apply for admission by examination, the same is not true for one educated at a non-ABA-accredited out of state law school approved by that state. The TBLE proposes a modification of Rule 7, Section 2.02 to allow an attorney who received a J.D. from a non-ABA accredited law school that is accredited in the jurisdiction where it exists to apply for admission by examination if the attorney has passed the bar examination in the state in which the law school exists and the attorney has been engaged in the practice of law for three of the last five years immediately preceding the application. The TBLE notes that such a provision will open opportunities for graduates of Tennessee approved law schools in states that allow applications from graduates of state approved schools that reciprocate i.e., accept applications from graduates of their state approved schools. The provision regarding Correspondence Courses has been moved to Section 2.02 to make clear that the provision is

applicable to all law school education. New Section 2.02 has been expanded to allow on-line learning to the extent allowed by the ABA. Lastly, the Approval of Tennessee Law Schools is limited to new law schools seeking provisional accreditation and pending full accreditation from the American Bar Association. No new law schools in Tennessee will be considered for approval if not seeking ABA accreditation. Law schools in Tennessee now approved that are not seeking ABA accreditation are excluded from the provision.

- iv) *Rule 7, Article III.* Most notably, the revisions to this Article note the move to an electronic application form. The Board will no longer furnish application forms. Additionally, the Notice of Intent form was abrogated by the Board with move to electronic applications. In order to give the Board sufficient time to determine eligibility, the TBLE proposes a change to one deadline (December 30 for the February exam and May 31 for the July exam) for all applications rather than a timely and late deadline that differs depending on type of application. The deadline cannot be extended for any reason and documents must be submitted on or before the deadline rather than postmarked by the deadline. A provision has been added to clarify the continuing obligation of an applicant to update responses whenever there is a change to the information previously provided to the Board and that an application on file for two or more years must be supplemented every

two years until an application is resolved. Another new provision includes a Duty of Candor cautioning an applicant to make full, careful and accurate disclosures and responses. Lastly, the section captioned, “Applicants with Disabilities” has been re-titled, “Applicants Requiring Non-Standard Testing Accommodations” and now includes a provision that allows the Board to refer an applicant requesting non-standard testing accommodations to an appropriate professional for recommendations regarding the accommodation to grant.

- v) *Rule 7, Article IV.* Article IV has been modified to reflect current exam practices. The scope of the examination has been modified to eliminate testing on Articles 1 and 6 of the Uniform Commercial Code and to change “Domestic relations or personal status” to “Family Law.” Section 4.05 regarding the requirement of a re-examination applicant to sit out an examination cycle and have a supervising attorney and study plan has been eliminated. After careful study, the TBLE does not find the provision effective in improving an applicant’s chance of passing the examination. New provisions have been added to Section 4.07 regarding grading the examination. The first revision includes the Board policy, approved by the Court, that scores are valid for two years after grade release. The second revision incorporates the requirement that applicants by examination pass the Multistate Professional Responsibility Examination within two years of successfully completing

the bar examination with the caveat that an applicant licensed and in good standing in another jurisdiction may submit a passing score from outside the two year timeframe.

- vi) *Rule 7, Article V.* Article V has been re-written to clarify the requirements for admission without examination, including what constitutes the practice of law, and to allow practice pending admission pursuant to proposed revisions to Rule 7, Section 10.04.
- vii) *Rule 7, Article VII.* The title of this article is changed to Foreign-Educated Applicants to clarify to whom it applies. Moreover, Section 7.01 is changed to require an applicant educated outside the United States to receive an LL.M. from an ABA accredited law school or Tennessee law school approved by the Board. Such program must be taught in English and in the United States or its territories and must be attended on site at the ABA accredited or Tennessee approved school. Changes to 7.02 were stylistic and formatting revisions.
- viii) *Rule 7, Article VIII.* No changes are recommended to Article VIII.
- ix) *Rule 7, Article IX.* Sections 9.01, 9.02 and 9.03 have been modified to reflect the changes in Article I regarding licensing and the requirement of T.C.A. § 23-1-108, enacted in December, 2009, that all licensed attorneys take the oath of admission. Although it has long been Board practice to issue a Certificate of Eligibility, the revisions formalize that process and the process for extending the time within

which to become admitted. Additionally, the provisions of Article IX include the Board's policy that examination scores and investigations expire after two years and that applicants who are denied a license based in whole or in part on the failure of the applicant to demonstrate good moral character, due respect for the law or fitness to practice law may not reapply for admission within 36 months after the issuance of the order denying the application. Otherwise, an applicant who is eligible may go years without CLE or BPR oversight prior to admission. The addition of Section 9.07 prevents serial filing of applications by applicants who have been determined unfit for the practice of law in Tennessee and gives the applicant time to remediate or address the issues that resulted in denial of the license.

x) *Rule 7, Article X.*

(A) Section 10.01: The provisions regarding Registration of In-House Counsel have been modified to correct references to Rule 8. Additionally, changes have been incorporated to clarify that upon the occurrence of an event that results in the automatic termination of registration, the registered lawyer must give notice of the termination to the TBLE and to the Board of Professional Responsibility. For reinstatement of registration in paragraph (g), subparagraph (ii) is amended to make clear that the reinstatement fee is one-half the fee for registration and that the application, fee and affidavit are all required.

Lastly, because the requirement to register under the provision of this section is not clearly stated within Rule 8, RPC 5.5(d) but is in the comments to RPC 5.5, the Board proposes an amnesty period to allow current In-House Counsel thinking that they are authorized to offer services to their employer pursuant to Rule 8, RPC 5.5 without further action, to register without risk of being reported for unauthorized practice of law to the Board of Professional Responsibility or the disciplinary authority in the jurisdictions in which they are licensed.

(B) Section 10.02. The phrase “approved Tennessee law school” has been changed to “ABA-accredited or Tennessee-approved law school” to make consistent with similar passages elsewhere in the Rule. Subparagraph (c) is modified to include a provision strongly recommending attorneys who wish to continue to practice in Tennessee after expiration of the 2 year admission under § 10.02 begin the process of seeking admission in advance of the expiration of the two year period.

(C) Section 10.03. The changes to § 10.03(a) and the Explanatory Comments take into consideration the potential eligibility to take the examination for students from schools not accredited by the ABA and not approved pursuant to Rule 7, § 2.03 and clarify that § 10.03 applies only to law students from ABA-accredited or Tennessee-approved law schools.

(D) Section 10.04. This provision has been re-captioned and re-written in its entirety. Rather than allow only applicants who are recent law school graduates to practice pending admission, the revised provision takes into consideration the mobility of legal professionals. The new provisions allow an applicant, either by examination or without examination, to practice under supervision pending admission. The amendments make clear that an applicant must apply for admission prior to beginning practice in Tennessee. The Board proposes that a fee be assessed for processing and logging these applications.

(E) Section 10.05. The primary changes to Section 10.05 relate to failure to fulfill the terms of conditional admission. The process employed by the Board of Professional Responsibility is clarified so that it is clear that the Board of Professional Responsibility may use temporary suspension as an appropriate action upon failure to fulfill the terms of the Monitoring Agreement. Additionally, the revisions make clear that the Board of Professional Responsibility shall initiate proceedings to determine whether the conditional admission should be revoked.

**xi)** *Rule 7, Article XI.* Section 11.03 has been added. It has been a long-standing policy of the Board, approved by the Court, that fees are non-transferable and non-refundable except in the case of timely withdrawal

from the examination. The last day to withdraw has been revised, as well, to make consistent with ordering deadlines for test materials.

**xii)** *Rule 7, Article XII.* Section 12.05 has been revised to delete the word, “minute” and substitute “rule and policy.” Minutes of the Board are considered confidential under Section 12.11. The term “Administrator” has been replaced throughout with “Executive Director” to reflect the change in title adopted by the TBLE. Section 12.11 has been modified to make clear that electronic records, as well as paper records, are confidential. The amendments modify the confidentiality provisions to authorize the Board to release information which would otherwise be confidential to the Board of Professional Responsibility and adds that by completing an application, the applicant permits the Board to release applicant’s name, address and email address to the Bar and professional legal associations in Tennessee and to the law school from which the applicant graduated. Section 12.15 regarding immunity has been modified to include its applicability to the members of the Board, committee members, Executive Director, Assistants, exam proctors, and staff. Also added is an affirmative statement upon recommendation by the Attorney General’s Office to wit: that the immunity in Section 12.15 does not limit any other form of immunity available.

**xiii)** *Rule 7, Article XIII.* Changes to this Article are primarily corrections of typographical errors or correction of phrasing.

**xiv) Rule 7, Article XIV.** Section 14.01 is amended to require a writ or petition to review an action of the Board be filed within 60 days after the entry of the order of the Board rather than 60 days after the action complained of. The order includes a specific date of entry and provides the best measure of time.

**xv) Rule 7, Article XV.** Executive Secretary is changed to Executive Director. The word “conformed” has been added prior to “copies” so that all parties receive a copy of the entire petition, with attachments, submitted to the Clerk of the Appellate Courts. The Board often receives petitions to surrender a law license that does not include a copy of the law license or an affidavit regarding the reason the license is not attached. Therefore, this Board does not know when an objection would be appropriate. Requiring a conformed copy would make clear if the license is returned.

**xvi) Rule 7, Article XVI.** This is a new section in response to the many phone calls received by the Board regarding an attorney who wishes to have his or her law license reinstated and wants to take the bar examination in advance of a determination of a petition for reinstatement by the Supreme Court. The provisions clarify that a petitioner ordered by the Supreme Court to take the bar examination in order to reinstate a license must apply in the same manner, with the same fees and investigations as any other applicant.

xvii) *Rule 8, RPC 5.5(d)*. Since 2012, the Board has seen a steady increase in the number of applications from attorneys employed as In-House Counsel. Many of those applications are for admission without examination rather than for registration as In-House Counsel. As noted above, Rule 7, § 10.01 requires In-House Counsel to register within 180 days of beginning employment. Rule 7, § 5.01 requires an application be submitted and approved prior to beginning the practice of law in Tennessee. Several applicants for admission by comity have missed the 180 day window for registration as In-House Counsel. Part of the reason is that Rule 8, RPC 5.5(d) is read by some as not requiring any kind of registration or license.

The actual content of RPC 5.5(d) states:

(d) A lawyer admitted in another United States jurisdiction, and not disbarred or suspended from practice in any jurisdiction, may provide legal services in this jurisdiction that:

(1) are provided to the lawyer's employer or its organizational affiliates and are not services for which the forum requires pro hac vice admission; or

(2) ...

Comment 17 to RPC 5.5 states that “[i]f an employed lawyer establishes an office of other systematic presence ... for the purpose of rendering legal services to the employer, the lawyer may be subject to registration or other requirements” and references Rule 7,

§ 10.01. The Board proposes a revision to Rule 8, RPC 5.5 that would add subsection (3) to subparagraph (d):

(3) A lawyer providing legal services pursuant to paragraph (d)(1) is subject to registration pursuant to Tenn. Sup. Ct. R. 7, § 10.01, and may be subject to other requirements, including assessments for client protection funds and mandatory continuing legal education. Failure to register in a timely manner may preclude the lawyer from later seeking admission in this jurisdiction.

With this change to RPC 5.5 and those recommended to the Court in Rule 7, Article V and Section 10.01, there should not be any doubt as to the need of In-House Counsel to register within 180 days of beginning employment in Tennessee.

A copy of the amended Rules delineating the deletions, additions and changes, is attached hereto as "Exhibit A."

Wherefore, for the foregoing reasons, the Board respectfully requests that this Honorable Court to enter an Order amending Tennessee Supreme Court Rule 6, Rule 7, and Rule 8, RPC 5.5, as set forth herein.

Respectfully submitted,

**TENNESSEE BOARD OF LAW  
EXAMINERS**

By: \_\_\_\_\_

  
*Julian Bibb, President  
Tennessee Board of Law Examiners*

**CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of the foregoing Petition to Amend Supreme Court Rules 6, 7 and 8 RPC 5.5, has been served upon the individuals and organizations identified in "Exhibit B" by regular U.S. Mail, postage prepaid and posted on the Board's website at [www.tnble.org](http://www.tnble.org) on this 12<sup>th</sup> day of March, 2015.

A handwritten signature in blue ink, consisting of several overlapping loops and a horizontal stroke, positioned above a solid black horizontal line.

Lisa Perlen, Executive Director

**EXHIBIT A**

## **Rule 7. Licensing of Attorneys.**

### **PREFACE**

The Board of Law Examiners for the State of Tennessee is created as a part of the judicial branch of government by The Supreme Court of Tennessee pursuant to its inherent authority to regulate courts. The Supreme Court appoints the members of the Board and has general supervisory authority over all the Board's actions. Admission to practice law is controlled by the Supreme Court, which acts on the basis of the certificate of the State Board of Law Examiners.

### **ARTICLE I. ADMISSION TO THE BAR OF TENNESSEE**

#### **Sec. 1.01. ~~License Required~~ Prerequisites to Engaging in Practice of Law or Law Business.**

No person shall engage in the “practice of law” or the “law business” in Tennessee as defined in T.C.A. § 23-3-101, except pursuant to the authority of this Court, as evidenced by a license issued unless:

(a) he or she has been:

(i) admitted to the bar of the Supreme Court in accordance with Rule 6 and

(ii) issued a license by the Supreme Court in accordance with this Rule and after having been administered the oath in accordance with Rule 6 ~~in accordance with~~ as set forth in this Rule; or in accordance with the provisions of this Rule governing

(b) he or she has been granted permission to engage in special or limited practice under the provisions of Article X of this Rule, Tenn. Sup. Ct. R. 8, RPC 5.5(c), 5.5 (d)(2), or Tenn. Sup. Ct. R. 19 (pro hac vice).

[Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19, 1992.]

#### **Sec. 1.02. License; Certificate of Board Eligibility Required.**

The Supreme Court shall grant a ~~A~~ license evidencing admission to the bar of Tennessee ~~shall be granted by this the Supreme Court~~ only upon presentation of a ~~the~~ Certificate of Eligibility issued by the State Board of Law Examiners pursuant to section 9.01 of this ~~rule~~ **Rule**. The applicant must comply with Rule 6 and obtain his or her license within two years of: (a) the date of the notice that the applicant successfully passed the bar examination; or ~~(2b)~~ the date of the notice of the Board’s approval of the application for admission under Article V of this rule. All bar examination scores and investigations are invalid upon the expiration of the applicable two-year period.

[Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19, 1992.]

**Sec. 1.03. Criteria for Admission-Issuance of the Certificate of Eligibility.**

~~The issuance of the~~ The Board shall issue a Certificate of Eligibility of the Board, issued pursuant to ~~the provisions of section~~ 9.01 of this Rule, ~~will be based only upon it's a~~ the Board's determination that the applicant:

- ~~(i)a)~~ is ~~of the statutory age~~ at least 18 years of age;
- ~~(ii)b)~~ has satisfied the educational requirements for admission specified by this Rule;
- ~~(iii)c)~~ has passed the examination or examinations required by this Rule, or is eligible for admission without examination as hereinafter provided in Article V;
- ~~(iv)d)~~ has demonstrated ~~such~~ the reputation and character ~~as that~~ in the opinion of the Board indicates no reasonable basis for substantial doubts ~~that~~ the applicant will adhere to the standards of conduct required of attorneys in this State; and
- ~~(v)e)~~ has evidenced a commitment to serve the administration of justice in this State.

[Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19, 1992.]

**Sec. 1.04. Waiver of Examination.**

~~In the case of~~ If an applicant ~~who~~ has been admitted to practice in another jurisdiction in this country, ~~who~~ satisfies the other requirements for admission, and ~~who~~ demonstrates competence to practice in Tennessee by meeting the criteria specified in this Rule, the Board may waive the requirement of passing an examination as hereinafter provided in Article V. [Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19, 1992.]

**Sec. 1.05. Status of Persons Admitted.**

All persons admitted to the bar of Tennessee are by virtue of such admission: (i) officers of the courts of Tennessee, eligible for admission to practice in any court in this State, and entitled to engage in the "law<sup>22</sup> business" as defined in T.C.A. § 23-3-101; and (ii) subject to the duties and standards imposed from time to time on attorneys in this State.

[Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19, 1992.]

**Sec. 1.06. Existing Licenses.**

Nothing in this Rule will be construed as requiring the relicensing of persons holding valid licenses to practice as of the date of its adoption. [Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19, 1992.]

*Reason for changes: The provisions of Rule 7 relate to licensing; Rule 6, to administering the oath. Both are required to practice law. The changes make clear that the license will not be issued until the oath has been administered. This will prevent the “unintentional” unauthorized practice of law by those who receive a license but fail to appear for the administration of the oath. See also Article 9 below. Other changes include incorporation of the statutory definition of “practice of law” and “business of law” not otherwise defined in the rule and a change from “statutory age” to “18 years of age.” Also included is an expiration date for scores, currently included in the Policies and Procedures of the Board and approved by the Court. The change to the outline/numbering format makes this provision consistent with the outline numbering in the Rule.*

## **ARTICLE II. EDUCATIONAL REQUIREMENTS FOR ADMISSION**

### **Sec. 2.01. Bachelor’s and Law Degrees.**

~~(a) To be eligible to take the examination or to be eligible for licensing without examination pursuant to Article V, an applicant, prior to taking the bar examination, must file as part of the application (a) Evidence satisfactory to the Board that prior to beginning the study of law the applicant ~~had~~ have received a Bachelor's Degree or higher from a college on the approved list of the Southern Association of Colleges and Secondary Schools, or the equivalent regional accrediting association, or any accreditation agency imposing at least substantially equivalent standards; ~~and~~. As part of the bar examination application, each applicant shall provide evidence of the degree in the form required by the Board.~~

~~(b) A certificate from the dean or supervising authority of the school of law in which the applicant is enrolled or from which the applicant graduated, that the school is accredited by the American Bar Association, or is a Tennessee law school that has been approved by the Board under Section 2.03, and that the applicant has completed all the requirements for graduation and will have the number of credit hours required for graduation by the date of the bar examination. If the latter type of certificate is furnished, a supplemental statement by the dean or other supervising authority must be made showing completion of all requirements for graduation by the date of the examination. (transferred to 2.02)~~

(eb) The Board in its discretion may waive the requirement of graduation a degree from an accredited undergraduate school if the applicant has graduated from either: (i) a law school accredited by the American Bar Association or (ii) a Tennessee law school approved by the Board pursuant to § 2.03.

[Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19, 1992; as amended by order filed April 15, 1999, effective May 1, 1999; and by order filed March 15, 2010, effective March 15, 2010.]

*Reason for changes: The introductory statement is merged into paragraph (a) and the requirements for law degree verification is moved to § 2.02 with the provision requiring graduation from an ABA accredited or Tennessee approved law school. Rather than specify the type of verification form, the application will include the requirements based on the type of application. The education requirements for admission are the same with and without examination. Additionally, the revisions mirror currently offered joint programs and law school admissions practices. Many universities now include programs providing for joint degrees so that an undergraduate degree is not conferred until after beginning law school or a Masters degree is conferred at the completion of the program without a Bachelor's degree. The law school deans requested this change. Paragraph (b) is moved to §2.02 in order to keep provisions regarding law school education in one section and minimize confusion or misapplication of the provisions. Paragraphs (c) is renamed (b) and clarifies that only schools located in Tennessee are approved pursuant to § 2.03. The changes make consistent the application of the approval provisions to Tennessee schools only.*

## **Sec. 2.02. Legal Education and Approval of Law Schools**

(a) ~~Each applicant to take the examination~~ To be eligible to take the examination or to be eligible for licensing without examination pursuant to Article V, an applicant must have completed a course of instruction in and graduated from a regularly organized law school which was accredited by the American Bar Association at the time of applicant's graduation, or a ~~one~~ Tennessee law school which has been approved by the Board pursuant to Section 2.03 at the time of the applicant's graduation.

(b) To be eligible to take the examination, an applicant must cause to be filed as part of the application a certificate from the dean or supervising authority of the school of law in which the applicant is enrolled or from which the applicant graduated, certifying the applicant has completed all the requirements for graduation and will have the number of credit hours required for graduation by the date of the bar examination and either (1) the school is accredited by the American Bar Association, or (2) the school is a Tennessee law school that has been approved by the Board under Section 2.03. If the latter type of certificate is furnished, the applicant must cause to be filed a supplemental statement by the dean or other supervising authority showing completion of all requirements for graduation by the date of the examination.

(c) Notwithstanding the provisions of §§ 2.01 and 2.02, an attorney who received a legal education in the United States or U.S. Territories but is not eligible for admission by virtue of not having attended a law school accredited by the American Bar Association or a Tennessee law school approved by the Board may nevertheless be considered for admission by examination provided the attorney satisfies the following requirements:

(i) The attorney holds a J.D. Degree, which is not based on study by correspondence or other than in-person attendance, from a law school approved by an authority similar to the Tennessee Board of Law Examiners in the jurisdiction where it exists and which requires the equivalent of a three-year

course of study that is the substantial equivalent of the legal education provided by approved law schools located in Tennessee. The applicant shall bear the cost of the evaluation of his/her legal education, as determined by the Board, and the application shall not be processed until the applicant's legal education is approved by the Board of Bar Examiners; and

(ii) The attorney has passed a bar examination equivalent to that required by Tennessee in the state in which the law school exists; and

(ii) The attorney has been actively and substantially engaged in lawful practice of law as his or her principal business or occupation for at least three of the last five years immediately preceding the filing of the application; and

(iii) In evaluating the education received the Board shall consider, but not be limited to, such factors as the similarity of the curriculum taken to that offered in law schools approved by the American Bar Association and that the school at which the applicant's legal education was received has been examined and approved by other state bar associations examining the legal qualifications of non-ABA law school graduates; and

(iv) The attorney meets all other requirements contained in the Rules of the Supreme Court of Tennessee pertaining to Admission of Persons to Practice Law.

(d) No Correspondence Course. No correspondence course will be accepted by the Board as any part of an applicant's legal education to meet the requirements of this rule. Distance, on-line or other instruction that is not in person will be accepted as part of a curriculum to the extent approved by the American Bar Association for accredited law schools.

[Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19, 1992; as amended by order filed April 15, 1999, effective May 1, 1999. Amended by order filed March 15, 2010, effective as of the date of the Order.]

*Paragraphs (a) and (b) reflect the changes in §2.01 for law degrees (separating undergraduate and law degree requirements). Paragraph (c) is new and allows someone who went to a school approved in another state but not accredited by the ABA to be licensed in Tennessee if he or she went to a school approved in the jurisdiction and has been licensed, practicing and in good standing for three of the last five years. This makes consistent the provisions for foreign educated applicants and applicants educated in the United States by schools other than ABA accredited schools. The non-ABA accredited school must be approved by the approving agency of the State in which it is located and its graduates must have passed the bar exam in the state in which the school is approved. Only admission by examination is allowed to applicants from non-ABA accredited/non-TN approved law schools. Paragraph (d) is moved from 2.04 and incorporated into the provisions regarding legal education. The last sentence regarding other than in-person learning is new and follows a recommendation from the Law School Deans.*

### **Sec. 2.03. Approval of Tennessee Law Schools Not Accredited by the American Bar Association**

The Board may approve any law school in Tennessee ~~not accredited~~ seeking provisional accreditation and pending full accreditation by the American Bar Association for the purpose of allowing its graduates to be eligible to take the Tennessee bar examination when the standards in this section are met and the Board finds the school is effectively achieving its mission and objectives.

(a) Statement of Mission or Objectives. A school shall adopt a statement of its mission or objectives, which shall include a commitment to a program of legal education designed to provide its graduates with:

- (i) An understanding of their professional responsibilities as representatives of clients, officers of the courts, and public citizens responsible for the quality and availability of justice under the law;
- (ii) A basic legal education through a course of study that develops an understanding of the fundamental principles of public and private law, an understanding of the nature, basis and role of the law and its institutions, and skills of legal analysis and writing, issue recognition, reasoning, problem solving, organization, and oral and written communications necessary to participate effectively in the legal profession.

(b) Organization and Administration. A school shall adopt and maintain an organizational and administrative structure that complies with the following standards:

- (i) It shall be governed by, and its general policies shall be established by, a governing board composed of individuals who are not members of its faculty and who are dedicated to fulfilling the mission or objectives of the school.
- (ii) It shall have a dean, selected by the governing board, to whom the dean shall be accountable; and who shall be provided with the authority and support needed to carry out the responsibilities of the position.
- (iii) The dean, with the advice of the faculty or its representatives, shall formulate and administer the educational program of the school, including the course of study; methods of instruction; admission; and academic standards for retention, advancement and graduation of students; and shall recommend to the governing board the selection, retention and compensation of the faculty.
- (iv) Alumni, students and others may be involved in assisting the governing board, the dean and the faculty in developing policies and otherwise in fulfilling the mission or objectives of the school, in a participatory or advisory capacity.
- (v) A school shall not be conducted as a commercial enterprise, and the compensation of any person shall not depend on the number of students or on the fees received.

(vi) A law school shall foster and maintain equality of opportunity in legal education, including employment of faculty and staff, without discrimination or segregation on ground of race, color, religion, national origin, sex or disability.

(c) Faculty. A school shall establish policies with respect to its faculty consistent with the following standards:

(i) A law school shall have a faculty whose members possess a high level of competence and experience as may be demonstrated by education, teaching ability, judicial service, and capacity for legal research and writing.

(ii) To be eligible for appointment to the faculty, a person must be a licensed attorney of known ability and integrity. Nothing in this section shall, however, prevent the appointment of other persons of known ability and integrity who are not licensed lawyers to instruct in inter-disciplinary courses such as accounting, taxation, legal research, writing skills, and medicine for lawyers.

(iii) A law school shall take reasonable steps to ensure the teaching effectiveness of each member of the faculty.

(iv) A number of faculty members shall be employed sufficient to fulfill the mission or objectives of the school.

(d) Facilities. A school shall have classrooms, other physical facilities and technological capacities that are adequate for the fulfillment of its mission or objectives.

(e) Library. A school shall maintain a law library, including access to computerized research, sufficient to meet the research needs of its students and facilitate the education of its students consistent with its mission or objectives. The library shall be available to all students at reasonable hours.

(f) Program of Legal Education. A school shall maintain an educational program designed to fulfill its mission or objectives, which program shall be consistent with the following standards:

(i) The educational program shall be designed to qualify its graduates for admission to the bar and to prepare them to participate effectively and honorably in the legal profession.

(ii) The course of study shall:

(A) Include instruction in those subjects generally regarded as the core of the law school curriculum, including but not limited to the law school subjects covered on the Tennessee bar examination and listed in section 4.04;

(B) Be designed to fulfill the school's mission or objectives, including those expressed in Subsection (a) above;

(C) Include at least one rigorous writing experience;

(D) Require at least the minimum standards of class hours required from time to time under the American Bar Association standards for approval of law schools for the particular category of school;

(E) Be based on a schedule of classes to meet the minimum standards of class hours, which schedule may include weekend classes;

(F) Include adequate opportunities, and emphasis on, instruction in professional skills, particularly skills in written communication.

(iii) A school shall adopt and adhere to sound standards of academic achievement, including:

(A) Clearly stated standards for good standing, advancement and graduation; and

(B) Termination of enrollment of a student whose inability or unwillingness to do satisfactory work is sufficiently manifest so that such student's continuation in school would inculcate false hopes, constitute economic exploitation, or detrimentally affect the education of other students.

(g) Admissions. A school shall adopt and adhere to admission policies consistent with the following standards:

(i) A school's admission policy shall be based on, and consistent with, its mission or objectives.

(ii) To be admitted, an applicant must have:

(A) Received a bachelor's degree as provided in Section 2.01; and

(B) Taken an acceptable test for the purpose of assessing the applicant's capability of satisfactorily completing the school's educational program; (the Law School Admission Test sponsored by the Law School Admission Council qualifies as an acceptable test; and the use of any other test must be approved by the Board) and

(C) Satisfied the minimum requirements for admission established by the governing board of the school; and

(D) Satisfied the dean and Admissions Committee that the applicant possesses good moral character.

(iii) A law school may not use admission policies or take other action to preclude admission of applicants or retention of students on the basis of race, color, religion, national origin, sex or disability.

(h) Basic Consumer Information. A school shall publish basic consumer information in a fair and accurate manner, reflective of actual practice, including:

(i) statement of mission or objectives;

(ii) admission data;

- (iii) tuition, fees, living costs, financial aid, and refunds;
- (iv) enrollment data and graduation rates;
- (v) composition and number of faculty and administrators;
- (vi) description of educational program and curricular offerings;
- (vii) library resources;
- (viii) physical facilities; and
- (ix) placement rates and bar passage data.

(i) Self-Study.

(i) The dean and faculty shall develop and periodically revise a written self-study, including an evaluation of the following topics: the continuing relevance of the school's mission or objectives; the effectiveness of the program of legal education; the appropriateness of the school's admission policies; the significance of the trend in rates of graduation and attrition; and the significance of the trends in the pass/fail rate on the bar examination; the strengths and weaknesses of the school's policies; goals to improve the educational program; and means to accomplish unrealized goals.

(ii) The self-study shall be completed every seven years or earlier upon written request of the Board of Law Examiners.

(j) Functions of Board.

(i) The Board of Law Examiners shall determine whether such Tennessee law school has met these educational standards and is effectively achieving its mission and objectives and when such school is entitled to be approved as in good standing with the Board, subject to review by the Supreme Court under the provisions of Rule 7.

(ii) The Board is authorized to make inquiry to the school and respond to inquiry by the school and to adopt such additional standards as in its judgment the educational needs of the school may justify, which changes shall be subject to the Court's approval.

(iii) The Board may require a school to furnish such information, including periodic reports, as it deems reasonably appropriate for carrying out its responsibilities. The Board may also require a school to furnish information known to school officials relevant to the character and fitness of its students.

(iv) The Board may investigate such law schools in accordance with section 2.07, and such investigations shall be confidential to ensure a frank, candid exchange of information and evaluation.

(v) A law school may be granted approval and be in good standing when it establishes to the satisfaction of the Board that it is in compliance with the

standards set forth herein and the Board finds the school is effectively achieving its mission and objectives.

(vi) If the Board has reasonable cause to believe that a law school does not comply with the standards in section 2.03, and/or the school is not effectively achieving its mission and objectives, it shall inform the school of its apparent non-compliance or failure to effectively achieve its mission or objectives and follow the procedures in sections 2.09, 2.10, 2.11, 2.13 and related sections.

(k) Certification of Compliance. The dean and the chairperson of the board of directors of the law school shall certify annually in writing to the Board of Law Examiners that the school is in compliance with these standards and is effectively achieving its mission and objectives or, if not in compliance or not effectively achieving its mission or objectives, identify areas of non-compliance or other deficiencies, as well as its intention and plan of action to attain compliance.

(l) Tennessee Law Schools Not Accredited by the American Bar Association. The Board will approve law schools in Tennessee pending provisional accreditation by the American Bar Association (“ABA”) until such time as the school is provisionally accredited. Law schools that are not provisionally accredited, do not achieve full accreditation or lose their ABA accreditation, will not be approved by the Board until a new application or similar process for provisional or renewed accreditation has begun with the ABA.

Students of Tennessee law schools currently approved by this Board not made pending ABA provisional accreditation, shall not be barred from taking the Tennessee bar examination so long as the law school continues to comply with the requirements of this Rule as it may be amended.

[Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19, 1992; amended by order filed December 15, 2000, effective as indicated in the compiler's note.]

**Sec. 2.04. No Correspondence Course. Abrogated.**

~~No correspondence course will be accepted by the Board as any part of an applicant's legal education to meet the requirements of this rule.~~ [Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19, 1992.]

**Sec. 2.05. Statement of Status.**

In its catalogs or other informational material distributed to prospective students, a law school shall state whether it is accredited by the American Bar Association or has been approved by the Board pursuant to section 2.03. Any law school in Tennessee, which has not been accredited by the American Bar Association or approved by the Board and which advertises in its catalog or otherwise that it is so accredited or approved, shall not be recognized by the Board as other than a substandard school and will be so classified and disapproved.

[Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19, 1992; amended by order filed December 15, 2000, effective as indicated in the compiler's note.]

### **Sec. 2.06. New Law Schools in Tennessee.**

Any law school located in Tennessee (whether full-time or part-time), which permits the enrollment of students without first having obtained the written approval of the Board, shall be classified as a substandard school. Its graduates shall be denied permission to take the examination.

[Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19, 1992.]

### **Sec. 2.07. Investigation and Evaluation by Board.**

The Board may investigate and evaluate any law school located in Tennessee, from time to time, with respect to the adequacy of its facilities, faculty and course of study. In addition, representatives of the Board may participate as observers in connection with law school evaluations or investigations conducted from time to time by the American Bar Association in its accreditation process. The refusal of any such school to cooperate or participate in the conduct of such evaluation shall be reported to the Court, which may, after hearing, take such actions as the facts may justify. Each law school located in Tennessee shall furnish to the Board copies of all documentation, including self-study analyses and evaluation reports, prepared, completed or received in connection with such school's accreditation status with the American Bar Association. The investigation of any law school, including all reports, data and other information provided to the Board in connection with approval of the law school's standing with the Board shall be confidential in order to ensure a frank, candid exchange of information.

[Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19, 1992; amended by order filed December 15, 2000, effective January 13, 2001.]

### **Sec. 2.08. Site Evaluation of Approved Law Schools.**

(a) A site evaluation by the Board of a law school approved by the ~~Supreme Court~~ Board shall be conducted in the third year following the granting of approval and every seventh year thereafter. The Board may order additional site evaluations of a school when special circumstances warrant.

(b) The Board shall arrange for the site evaluation or inspection of the law school by a team of qualified and objective persons who have no conflicts of interest as defined in section 2.15.

(c) Before the site evaluation, the law school shall furnish to the Board and members of the site evaluation team a completed application (if the school is applying for approval), the current self-study undertaken by the dean and faculty, and any complaints that the law school is not in compliance with the standards.

(d) The Board shall schedule the site evaluation of the law school to take place during the academic year at a time when regular academic classes are being conducted. A site evaluation usually requires several days, as classes are visited, faculty quality assessed, admissions policies reviewed, records inspected, physical facilities examined, the library assessed, information reviewed, and consultations held with the chairperson of the board, officers of the institution, the dean of the law school, members of the law school faculty, professional staff, law students, and

members of the legal community. In the case of a law school seeking approval, such visit shall be scheduled within three months after receipt by the Board of an application for approval.

(e) Following a site evaluation, the team shall promptly prepare a written report based upon the site evaluation. The team shall not determine compliance or non-compliance with the standards, but shall report facts and observations that will enable the Board and the Supreme Court to determine compliance. The report of the team should give as much pertinent information as feasible.

(f) The team shall promptly submit its report to the Board. After reviewing the report, the Board shall transmit the report to the chairperson and the dean of the law school in order to provide an opportunity to make factual corrections and comments. In the letter transmitting the report, the Board shall include the date on which the Board will consider the report and shall advise that any response to the report must be received by the Board at least fifteen (15) days prior to the date of the meeting at which the Board will consider the report. The school shall be given at least thirty (30) days to prepare its response to the report, unless the school consents to a shorter time period. The thirty-day period shall run from the date on which the Board mailed the report to the school.

(g) Following receipt of the school's response to the site evaluation report, the Board shall forward a copy of the report with the school's response to members of the Board and the site evaluation team.

(h) The Board may not consider any additional information submitted by the school after the school's response to the report has been received by the Board, unless (1) the information is received in writing by the Board at least fifteen (15) days before the Board meeting at which the report is scheduled to be considered, or (2) for good cause shown, the president of the Board authorizes consideration of the additional information that was not received in a timely manner.

(i) Upon the completion of the procedures, the Board shall consider the law school's evaluation and determine whether the school is in compliance with the standards and is effectively achieving its mission and objectives.

(j) A request for postponement of a site evaluation will be granted only if the law school is in the process of moving to a new physical facility or if extraordinary circumstances exist which would make it impossible for the scheduled site evaluation to take place. The postponement shall not exceed one year.

[Adopted by order entered December 15, 2000, effective January 13, 2001.]

**Sec. 2.09. Action Concerning Apparent Non-Compliance with Standards or Deficiencies in Mission.**

(a) If the Board has reasonable cause to believe that a law school does not comply with the standards in section 2.03 or is not effectively achieving its mission or objectives, it shall inform the school of its apparent non-compliance or deficiencies and request the school to furnish by a date certain further information about the matter and about action taken to bring the school in compliance with the standards or correct the deficiencies. The school shall furnish the requested information to the Board within the time prescribed.

(b) If upon a review of the information furnished by the law school in response to the Board's request and other relevant information, the Board determines that the school has not demonstrated compliance with the standards or is not effectively achieving its mission or objectives, the school may be required to appear at a hearing before the Board to be held at a specified time and place to show cause why the school should not be required to take appropriate remedial action, placed on probation, removed from the list of law schools approved by the Supreme Court, or be subject to other appropriate action.

(c) If the Board finds that a law school has failed to comply with the standards or is not effectively achieving its mission or objectives by refusing to furnish information or to cooperate in a site evaluation, the school may be required to appear at a hearing before the Board to be held at a specified time and place to show cause why the school should not be required to take appropriate remedial action, placed on probation, removed from the list of law schools approved by the Supreme Court, or be subject to other appropriate action.

(d) The Board shall give the law school at least thirty (30) days notice of the show cause hearing. The notice shall specify the school's apparent non-compliance with the standards or its failure to effectively achieve its mission or objectives and state the time and place of the hearing. For good cause shown, the president of the Board may grant the school additional time, not to exceed thirty (30) days. Both the notice and the request for extension of time must be in writing. The Board shall send the notice of hearing to the dean of the school by certified or registered United States mail. [Adopted by order entered December 15, 2000, effective January 13, 2001.]

#### **Sec. 2.10. Fact Finder.**

(a) The president of the Board may appoint a fact finder to elicit facts relevant to any matter before the Board.

(b) The Board shall furnish the fact finder with a copy of the most recent site evaluation report, any action letters written subsequent to the most recent site evaluation report, notice of hearing and other relevant information.

(c) Following the fact finding visit, the fact finder shall promptly prepare a written report. The fact finder shall not determine compliance or non-compliance with the standards or whether the school is effectively achieving its mission or objectives, but shall report facts and observations that will enable the Board to determine compliance or deficiencies. The report of the fact finder should give as much pertinent information as feasible.

(d) The fact finder shall promptly submit the report to the Board. After reviewing the report, the Board shall transmit the report to the dean of the law school in order to provide an opportunity to make factual corrections and comments. In the letter of transmittal of the report, the Board shall include the date on which the Board will consider the report. The Board shall further advise the school as to the date upon which their response to the report must be received by the Board, which date shall be at least fifteen (15) days prior to the date of the meeting at which the Board will consider the report. The school shall be given at least thirty (30) days to prepare its response to the report, unless the school consents to a shorter time period. The thirty-day period shall run from the date on which the Board mailed the report to the school.

[Adopted by order entered December 15, 2000, effective January 13, 2001.]

**Sec. 2.11. Hearing on Show Cause Order.**

- (a) The Board shall have available for review at the show cause hearing:
- (i) The fact finder's report, if any;
  - (ii) The most recent site evaluation report;
  - (iii) Any site evaluation questionnaire;
  - (iv) Any action letters written subsequent to the most recent site evaluation report, which letters direct the school to rectify non-compliance or correct deficiencies;
  - (v) Notice of Board hearing; and
  - (vi) Other relevant information.
- (b) Representatives of the law school, including legal counsel, may appear at the hearing and submit information to demonstrate that the school is currently in compliance with all of the standards and is effectively achieving its mission or objectives or to present a reliable plan for bringing the school into compliance with all of the standards and to correct deficiencies within a reasonable time.
- (c) The Board may invite the fact finder, if any, and the chairperson or other member of the most recent site evaluation team to appear at the hearing. The law school shall reimburse the fact finder and site evaluation team member for reasonable and necessary expenses incurred in attending the hearing.
- (d) After the hearing, the Board shall determine whether the law school is in compliance with the standards and whether it is effectively achieving its mission and objectives and, if not, it shall direct the law school to take remedial action or shall impose sanctions, as appropriate.
- (i) Remedial action may be ordered pursuant to a reliable plan for bringing the school into compliance with all of the standards and to help it achieve its mission and objectives.
  - (ii) If matters of non-compliance or deficiencies are substantial or have been persistent, then the Board may recommend to the Supreme Court that the school be subjected to sanctions other than removal from the list of approved law schools regardless of whether the school has presented a reliable plan for bringing the school into compliance or to correct deficiencies.
  - (iii) If matters of noncompliance or deficiencies are substantial or have been persistent, and the school fails to present a reliable plan for bringing the school into compliance with all of the standards or to correct deficiencies, the Board may recommend to the Supreme Court that the school be removed from the list of approved schools.

(e) If the Board determines that the law school is in compliance and has no deficiencies, it shall conclude the matter by adopting an appropriate resolution, a copy of which shall be transmitted to the dean of the school by the Board.

[Adopted by order entered December 15, 2000, effective January 13, 2001.]

**Sec. 2.12. Confidentiality of Approval and Evaluation Procedures.**

The proceedings set forth in sections 2.03, 2.07, 2.08, 2.09, 2.10 and 2.11 shall be confidential to ensure a frank, candid exchange of information.

[Adopted by order entered December 15, 2000, effective January 13, 2001.]

**Sec. 2.13. Supreme Court Consideration of Board Recommendation for Imposition of Sanctions.**

(a) If the Board determines that a law school is not in compliance with the standards or has effectively failed to achieve its mission and objectives and recommends that the school be placed on probation or removed from the list of approved law schools, the Board shall notify the Supreme Court and request a hearing. The Board shall notify the dean of the school of the time and place of the Supreme Court hearing, which shall be open to the public.

(b) The Board shall file with the Supreme Court in the public record the Board's written recommendation, the fact finder's report, if any, the most recent site evaluation report and any action letters to the school written subsequent to the most recent site evaluation report.

(c) Representatives of the law school, including legal counsel, may appear at the Supreme Court hearing at which the Board's recommendations are considered. The president of the Board of Law Examiners (or his or her designee) shall present the Board's findings, conclusions and recommendations.

(d) The Supreme Court shall determine whether to affirm the Board's findings and conclusions, and whether to adopt the Board's recommendations. The Board's findings and conclusions shall be affirmed if there is a substantial basis to support them, unless the school presents new information that, in the opinion of the Supreme Court, demonstrates that the school is in compliance with the standards.

(e) The Supreme Court may direct the law school to take appropriate remedial action or subject it to sanctions other than removal from the list of approved law schools regardless of whether the school has presented a reliable plan for bringing the school into compliance with all of the standards.

(f) The Supreme Court shall inform the dean of the law school of the decision by court order. If the decision is adverse to the law school, the order shall provide specific reasons for the decision.

(g) If the Court imposes sanctions in the absence of a reliable plan for bringing the school into compliance with all of the standards or to correct deficiencies, the Board shall monitor the steps taken by the school to come into compliance. If the Court imposes sanctions pursuant to a reliable plan for bringing the school into compliance with the standards and/or to correct deficiencies, the Board shall monitor the steps taken by the school for meeting its plan. At any

time that the school is not making progress toward compliance with all of the standards or to correct deficiencies, or at any time that the school is not meeting the obligations of its plan, or if at the end of a period of time set by the Court for coming into compliance the school has not achieved compliance with all of the standards or corrected all deficiencies, the Board shall forward a recommendation that the school be removed from the list of approved schools. This recommendation shall be heard by the Court under the procedures of this section 2.13 but the only issue for Court consideration will be whether the school has met the terms of its plan or is in compliance with all of the standards or has corrected deficiencies.

(h) At any time that the school presents information on which the Board concludes that the school is in full compliance with the standards or has corrected its deficiencies, the Board shall recommend to the Court that the school be taken off probation. This recommendation will be heard by the Court under the procedures of this section 2.13.

[Adopted by order entered December 15, 2000, effective January 13, 2001.]

#### **Sec. 2.14. Maximum Period for Compliance with Remedial or Probationary Requirements.**

Upon communication to a law school of a final decision that it is not in compliance with the standards or has failed to effectively achieve its mission or objectives and informing it that it has been ordered to take remedial action or has been placed on probation, the school shall have a period as set by the Supreme Court to come into compliance. The period may not exceed two (2) years unless such time is extended by the Supreme Court, as the case may be, for good cause shown. [Adopted by order entered December 15, 2000, effective January 13, 2001.]

#### **Sec. 2.15. Conflicts of Interest.**

Members of the Board and any site evaluation team as well as any fact finders appointed under the provisions of Article II should avoid any conflict of interest or perceived conflict of interest arising because a person has an “associational interest” in the law school or the law school program under review by the Board or the Supreme Court. Alumni, faculty and directors of the school under review are deemed to have an associational interest in the school and should recuse themselves from the process of review. Former faculty and board members who have terminated their relationship with the school less than five (5) years prior to the site inspection, evaluation or review process are also deemed to have an associational interest in the school and should recuse themselves from the process of review.

[Adopted by order entered December 15, 2000, effective January 13, 2001.]

### **ARTICLE III. APPLICATIONS FOR ADMISSION BY EXAMINATION**

#### **Sec. 3.01. Application Form.**

The Board shall cause a uniform application ~~form to be furnished to~~ process to be completed by all applicants for admission. The application ~~form~~ process shall require the submission of such information as the Board deems necessary or appropriate for the determination of the eligibility of applicants for admission pursuant to the criteria and standards set forth in this Rule.

[Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19, 1992, and by order filed March 23, 2004.]

*Reason for changes: The Board has implemented an online application process that eliminates the need to submit typed forms.*

**Sec. 3.02. Notice of Intent to Take First Examination.**

~~Each applicant who intends to take the examination for the first time shall file with the Board notice of such intention not later than March 1 for taking the July examination and October 1 for taking the February examination; provided however, that notices of intent may be filed after such dates but no later than June 10 for taking the July examination and January 10 for taking the February examination upon payment of the fees for late filing specified in the Board's schedule of fees. Such notice shall be in the form prescribed by the Board and shall be accompanied and supplemented by such additional information and documents as the Board may require.~~

Abrogated.

[Amended by order entered June 22, 1988; and by order filed August 23, 1993, and entered nunc pro tunc effective October 19, 1992.]

*Reason for changes: With the change to online filing, the Board has incorporated all information from the Notice of Intent form and all deadlines into one process.*

**Sec. 3.03. Date for Filing Application for First Examination or Reexamination.**

The application process to take the first examination shall begin on March 1 for the July examination and October 1 for the February examination and shall be filed completed no later than April 15 May 31 for taking the July examination and November 15 December 30 for taking the February examination; provided however, that applications may be filed after such dates but no later than June 10 for taking the July examination and January 10 for taking the February examination upon payment of the fee for late filing specified in the Board's schedule of fees. No application will be accepted unless a Notice of Intent is filed prior to or simultaneously with the application. In order for the Board to have sufficient time to determine each applicant's eligibility to sit for the bar examination, all documentation required to be submitted to the Board to complete the application process must be submitted on or before the deadline, including payment of all fees. Original documents that must be mailed to the Board must be received on or before the deadline. Applicants who have not completed the application process by the deadline are ineligible to sit for the examination. The only recourse for failure to complete the application is to reapply for the next examination.

[Amended by order entered April 18, 1985; by order entered June 22, 1988; and by order filed August 23, 1993, and entered nunc pro tunc effective October 19, 1992.]

*Reason for changes: Because there is no longer a notice of intent, the opening day for registration is incorporated into this provision. Many applicants delay submitting the application until the last day for filing. This delays receipt of many of the required ancillary documents, including recommendation letters and degree verifications. Without these documents, it is impossible for the Board to determine eligibility to sit for the examination. By making it clear that all documents must be in the office by the last day to file, an applicant who has not completed the application or followed through on requests for outside documentation is on notice that the application is not complete and the applicant will be denied eligibility to sit for the examination. Additionally, the change to one deadline rather than a regular and late deadline allows the Board ample time to review all applications for eligibility and eliminates confusion among applicants as to the deadline structure. This change will necessitate a review of the fee structure since there will no longer be late fees.*

**Sec. 3.04. Notice of Intent to Be Re-examined.**

~~Each applicant who intends to take the examination again after having failed to pass one or more examinations shall file with the Board notice of such intention not later than November 30 for taking a February examination and April 30 for taking a July examination; provided however, that notices of intent may be filed after such dates but no later than June 10 for taking the July examination and January 10 for taking the February examination upon payment of the fee for the late filing specified in the Board's schedule of fees.~~

Abrogated.

[Amended by order entered June 22, 1988; and by order filed August 23, 1993, and entered nunc pro tunc effective October 19, 1992.]

*Reason for changes: See comments to 3.02*

**Sec. 3.05. Supplemental Application for Re-examination.**

~~Each applicant who desires to be re-examined shall file a supplemental application on forms prescribed by the Board, furnishing such additional and supplemental information as the Board may require, by December 15 for the February examination and by May 15 for the July examination; provided however, that applications may be filed after such dates but no later than June 10 for taking the July examination and January 10 for taking the February examination upon payment of the fee for the late filing specified in the Board's schedule of fees.~~

[Amended by order entered April 18, 1985; and by order entered June 22, 1988; and by order filed August 23, 1993, and entered nunc pro tunc effective October 19, 1992.]

Abrogated.

*Reason for changes: The change to a uniform deadline for all application eliminates the need for a separate section for reexamination deadlines.*

**Sec. 3.06. Applications by Persons Admitted in Other Jurisdictions Seeking Waiver of Criteria Examination.**

Applications for admission by persons admitted in other jurisdictions seeking waiver of examination may be filed at any time in accordance with Article V of this Rule. In addition to the information required ~~on~~ by the uniform application ~~form~~ process, such applicants shall furnish such additional information as may be required by the Board ~~or the Administrator~~ to enable the Board to determine the applicant's eligibility for such admission.

[Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19, 1992, and by order filed March 23, 2004.]

*Reason for changes: See comments to 3.01. Since the Board determines eligibility, the inclusion of "Administrator" is unnecessary; the Executive Director may request information on behalf of the Board without being specified in the Rule.*

**Sec. 3.07. Additional Information.**

(a) ~~The Administrator, or any member of the Board or any individual member thereof~~ may request any applicant to furnish additional information:

- (~~a~~i) To supplement or explain answers to any question on the application;
- (~~b~~ii) As to the applicant's character;
- (~~c~~iii) As to the educational qualifications of the applicant, including information with respect to schools attended by the applicant;
- (~~d~~iv) As to the experience of the applicant; and
- (~~e~~v) As to such other matters as may be considered germane to the provisions of this Rule.

(b) Until an applicant is admitted to the Tennessee Bar, or the application is denied by the Board or voluntarily withdrawn, the applicant is under a continuing obligation to update responses to any of the information requested in the application process. Whenever there is an addition or a change to the information previously provided to the Board, the applicant must amend his or her application by filing an amendment or supplemental application as prescribed by the Board. Applications that have been on file for two years or more must be supplemented every two years until such time as the Applicant is admitted, has been denied admission, or has withdrawn the application for admission.

[Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19, 1992.]

*Reason for changes: This reflects Board policy requiring an updated character and fitness investigation every two years. Again, since the Executive Director does not make the decisions regarding eligibility, the request for the information would be on behalf of the Board. (see also 9.04) The change incorporates a posted Policy of the Board that has been provided to the Court.*

*Format change: the numbers of the outline have been change to reflect the addition of paragraph b.*

### **Sec. 3.08. Duty of Candor and Failure or Refusal to Furnish Information.**

Each applicant for admission to the bar has a duty to be candid and to make full, careful and accurate responses and disclosures in all phases of the application and admission process. Each applicant must respond fully to all inquiries. It is not proper for an applicant to give either an incomplete or misleading description of past events reflecting on the applicant's qualifications for admission to the bar.

The failure or refusal by any applicant to answer fully any question on the application ~~form~~ or to furnish information as required by the application ~~form~~ or pursuant to the provisions of this Rule, shall be sufficient cause for the Board to refuse to allow such applicant to take the examination or to be admitted.

[Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19, 1992.]

*Reason for change: The additional language makes clear that the applicant must fully disclose information to the Board. Failure to fully disclose is the most common reason for delays in the application process and one of the most frequent questions posed to the Board.*

### **Sec. 3.09. False Information.**

(a) The giving of false information or the making of false statements on the application form or to the Board shall be sufficient cause for the Board to refuse to allow such applicant to take the examination, or to be admitted.

(b) If the ~~Administrator~~ Executive Director or the Board has reason to believe that any person who has been admitted gave false information or made false statements to the Board, the basis for such belief shall be reported to Disciplinary Counsel of the Board of Professional Responsibility.

[Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19, 1992.]

*Reason for Change: This reflects a change in title of the Administrator adopted by the Board at a Board Meeting in 2012.*

### **Sec. 3.10. No Discretion to Waive Filing Dates.**

~~In order to provide sufficient time for preparation for the administration of the examination, Neither Administrator the Executive Director nor the Board shall have discretion to waive or extend the dates for filing notices of intent and applications to take the examination specified in the Section 3.02, 3.03, 3.04 and 3.05. An applicant aggrieved by an action of the Board denying an application pursuant to Sec. 3.03, 3.05, 3.07, 3.08 and 3.09 shall not be entitled to petition the Court for a review of said action.~~

[Added by order entered April 18, 1985; and amended by order entered June 22, 1988; and by order filed August 23, 1993, and entered nunc pro tunc effective October 19, 1992.]

*Reason for change: The revisions eliminate references to notices of intent and sections that have been abrogated.*

### **Sec. 3.11. Applicants ~~with Disabilities~~ Requiring Non-Standard Testing Accommodations**

The bar examination shall be administered to all eligible applicants in a manner that does not discriminate against applicants with ~~proven disabilities~~ non-standard testing needs. An applicant who is otherwise eligible to take the Tennessee bar examination may request a modification of the manner in which the examination is administered if, ~~by reason of a disability,~~ such applicant is unable to take the examination under normal testing conditions. An applicant requesting non-standard testing conditions ~~should make written request to the Board to obtain the necessary forms and procedures and shall complete and file same and submit the documents prescribed by the Board with the Board not less than thirty (30) days before the deadline for filing the application~~ by the filing deadline, except when the disability first occurs after the filing deadline. Because the forms and procedures are detailed, requiring the applicant to attach statements from law school officials and treating professionals, any applicant requesting non-standard testing conditions is encouraged to request, complete, and submit the application specified by Section 3.01 or 3.05 and the necessary non-standard testing forms to the Board as early as possible to permit an evaluation of the request. To the extent practicable, any accommodations requested shall be consistent with the security and integrity of the examination. The Board may refer the request for non-standard testing accommodations to an appropriate professional for recommendations regarding the accommodation to grant.

[Added by order entered April 15, 1999, effective May 1, 1999.]

*Reason for changes: The online application system cannot be modified to accept a Non-Standard Testing Questionnaire unless an application for the examination (first-time or re-examination) has been submitted. Additionally, the Board does not determine the non-standard accommodation without having all of the information to determine whether applicant meets the eligibility requirements to sit for the examination.*

## ARTICLE IV. THE EXAMINATION

### Sec. 4.01. The Purpose of the Examination.

The purpose of the examination is to enable applicants to demonstrate to the Board that they possess the knowledge, skills and abilities basic to competence in the profession, which are subject to testing.

[Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19, 1992.]

### Sec. 4.02. The Structure of the Examination.

The Board, in its discretion, shall determine the format and the structure of the examination, and shall include essay questions, the National Conference of Bar Examiners Multistate Bar Examination, other multiple choice questions, the National Conference of Bar Examiners Multistate Professional Responsibility Examination and such other categories of tests as the Board may consider appropriate. The Board may in its discretion use questions prepared by the National Conference of Bar Examiners for the Multistate Essay Examination and Multistate Performance Test. The Board may contract with others to provide test materials and to grade the same, ~~provided that the Board shall not require successful completion of the National Conference of Bar Examiners Multistate Professional Responsibility Examination for any applicant who otherwise qualifies for admission to the Bar prior to July 1993.~~

[Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19, 1992; amended by order filed April 15, 1999, effective May 1, 1999.]

*Reason for changes: The Board uses one Multistate Performance Test as part of the essay portion of the examination. The change makes clear that the Board may use this material as it is now listed as a separate category of testing provided by the National Conference of Bar Examiners. The provision regarding applicants prior to July 1993 is deleted since it is no longer applicable to any applicants.*

### Sec. 4.03. The Dates and Places of Giving the Examination.

The examination shall be given in February and July of each year at any one or more of the following places: Memphis, Nashville, Chattanooga and Knoxville, provided an examination is held at least once a year in each of the three grand divisions. The Court, in its discretion, may substitute another location in the same grand division for a city named in the preceding sentence.

[Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19, 1992; and amended by order filed July 11, 2012.]

### Sec. 4.04. The Scope of the Examination.

The examination is not designed to test the applicant's knowledge of specific law school subjects. However, familiarity with the following areas of the law is essential:

1. Constitutional law (United States and Tennessee).
2. Criminal law (substantive and procedural).
3. Contracts.
4. Torts.
5. Property (real and personal).
6. Evidence.
7. Civil procedure (United States and Tennessee).
8. Business organizations (including agency, partnerships and corporations).
9. Commercial transactions (Articles 1, 2, 3, 6 and 9 of the Uniform Commercial Code).
10. Wills and estates.
11. ~~Domestic relations or personal status~~ Family law (husband and wife, parent and child, marriage and divorce, etc.).
12. Professional responsibility.
13. Restitution and remedies.
14. Conflicts of law.

[Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19, 1992.]

*Reason for changes: The changes update the list to the topics assigned to graders and current lexicon.*

**Sec. 4.05. Re-examination.**

In case of failure on examination, the Board may, in its discretion, allow the applicant to take another examination upon ~~the filing of the notice of intent and the supplemental application completion of the application process~~ herein provided and the payment of the requisite fee. ~~An applicant who has failed 3 or more examinations shall not be permitted to take another examination except upon filing with the Board, at the time of the notice of intent to take the examination: (i) a statement certifying that applicant has undertaken a course of study designed to prepare applicant for the examination, including a description thereof; and (ii) a statement from an attorney admitted to practice in this State confirming that such attorney has supervised the applicant's course of study. An applicant who has failed 3 or more examinations shall not be permitted to take another examination until at least one examination has intervened between the last examination which the applicant failed and the one the applicant seeks eligibility to take. If the Board determines that the applicant's course of study is not sufficient evidence of additional legal education to justify re-examination, the Board may refuse to allow the applicant to take that examination.~~

[Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19, 1992.]

*Reason for change: The Board determined that there was no benefit to requiring an applicant to sit out an exam cycle or provide a study plan after 3 or more unsuccessful examinations. The rate of passing did not increase for re-examination after sitting out a cycle. The Board may deny an application for re-examination at any point without these provisions.*

**Sec. 4.06. Effect of Taking Examination on Eligibility for Admission.**

The fact that an applicant is allowed to take the examination shall not preclude further inquiries, investigation or proceedings with respect to the other criteria for admission under this Rule.

[Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19, 1992.]

**Sec. 4.07. ~~Anonymity in~~ Grading the Examination and Score Expiration.**

(a) The Board shall continue to maintain procedures which assure that the identity of each applicant in the grading process is not known to any person having responsibility for grading or determining whether the applicant passes or fails until the grades of all applicants have been finally determined.

(b) Tennessee bar examination scores are valid to determine eligibility for licensing for two years after the date grades are released; after two years, the scores expire.

(c) A score equal to or greater than that required by Tennessee on the Multistate Professional Responsibility examination (MPRE) must be achieved within two years of successfully completing the Tennessee bar examination; provided, however, that a score equal to or greater than the score required by Tennessee on the MPRE achieved by an applicant who is licensed by examination in another the United States or U.S. Territories shall constitute a passing MPRE score in Tennessee only if the applicant is active and in good standing in the other jurisdiction in which applicant is licensed. It is the responsibility of the applicant to cause MPRE score reports to be furnished to the Board. .

[Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19, 1992.]

*Reason for change: The Board has formally adopted a policy that exam and MPRE scores and character and fitness investigations are valid for two years. An applicant who is successful on an exam but does not complete the requirements for licensing within that time must be re-evaluated to determine if the applicant has maintain the skills, character and fitness required for licensing and admission. MPRE scores for applicants who are licensed, active and in good standing in another jurisdiction may be outside the two year time period because such applicants are being monitored by the disciplinary authority in the jurisdiction(s) in which they are licensed.*

## ARTICLE V. – PERSONS ADMITTED IN OTHER JURISDICTIONS SEEKING WAIVER OF EXAMINATION

### **Sec. 5.01. Minimum Requirement for Admission of Persons Admitted in Other Jurisdictions.**

~~(a) Any person who has been admitted and licensed to practice law in one or more states or in the District of Columbia (the term “state” including Territories and the District of Columbia) may apply for admission in this State without examination, provided that such applicant:~~

~~(ai) meets the educational requirements imposed by this Rule;~~

~~(bii) has actively engaged in the practice of law pursuant to a license from one or more states or in the District of Columbia for five of the seven years immediately preceding such application for admission in this state. The application for comity admission shall be submitted to the Board of Law Examiners and approved prior to commencement of “law business” or “practice of law” in Tennessee or employment as a lawyer in Tennessee. In addition to the definitions of “Practice of Law” and “Law Business” in T.C.A. § 23-3-101, “practice of law” or “law business” as used in this section means full-time private or public practice as a licensed attorney, and includes being actively engaged as a full-time teacher of law in a law school approved by the American Bar Association, and may be construed in the Board's discretion as being actively engaged in other full-time employment requiring interpretation of law and application of legal knowledge (in which event the Board shall consider such evaluative criteria as time devoted to legal work, the nature of the work, whether legal training or a law license was a prerequisite of employment, and other similar matters). Without waiving the minimum five year period, the Board, in its discretion and for exceptional circumstances shown by the applicant, may waive the requirement that such period immediately precede the application for admission in this State;~~

~~[Amended and Ordered Friday, January 21, 2011]~~

~~(ciii) has demonstrated such reputation and character as in the opinion of the Board indicates no reasonable basis for substantial doubt that the applicant will adhere to the standards of conduct required of attorneys in this State;~~

~~(div) demonstrates to the Board that applicant possesses the knowledge, skills and abilities basic to competence in the profession and has evidenced a commitment to serve the administration of justice in this State; and~~

~~(ev) has passed a bar examination equivalent to that required by the Board, with a grade at least equivalent to that required in Tennessee in at least one state in which applicant is licensed.~~

~~(fb) An applicant who was admitted and licensed to practice in another state pursuant to a “diploma privilege” which exempts an applicant from taking a bar examination may seek a waiver of subsection (e)-(a)(v) by filing a petition with the Board of Law Examiners setting forth the reasons why he or she should be admitted to practice law in Tennessee. The Board shall then conduct a hearing in response to the petition, according to the guidelines set forth in section 13.03, for the purpose of assessing the applicant's reputation, character, knowledge, skills and abilities. After considering the totality of the proof presented, the Board shall make a recommendation to this Court either for approval or denial of the petition or for such other action as the Board may deem appropriate. Any applicant whose petition for waiver of subsection (e) is denied by the Board may file a petition for review in this Court pursuant to the procedures set forth in Article XIV.~~

~~(gc) A certificate of good standing from the highest court of each state to which applicant has been admitted must accompany the application to the Board of Law Examiners. Without waiving the requirement of proof of good moral character, the Board, in its discretion and for exceptional circumstances shown by the applicant, may waive the requirement of a certificate of good standing from the highest court of each state to which applicant has been admitted.~~

~~[Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19, 1992; amended by order entered June 30, 2000.; Amended by order filed December 17, 2003; Amended by order entered February 15, 2006.]~~

### **Sec. 5.01 Minimum Requirements for Admission of Persons Admitted in Other Jurisdictions.**

(a) Requirements. An applicant who meets the requirements of (i) through (vi) of this paragraph may, upon motion, be admitted to the practice of law in this jurisdiction. The applicant shall:

(i) meet the educational requirements imposed by this Rule;

(ii) have been admitted by bar examination to practice law in one or more states, territories, or

the District of Columbia;

(iii) have been primarily engaged in the active practice of law in one or more states, territories, or the District of Columbia for five of the seven years immediately preceding the date upon which the application is filed;

(iv) establish that the applicant is currently a member in good standing in all jurisdictions where admitted;

(v) establish that the applicant is not currently subject to lawyer discipline or the subject of a pending disciplinary matter in any other jurisdiction; and

(vi) establish that the applicant possesses the character and fitness to practice law in this jurisdiction.

**(b) Diploma Privilege.** An applicant who was admitted and licensed to practice in another state pursuant to a “diploma privilege” which exempts an applicant from taking a bar examination may seek a waiver of subsection (e) (a)(i) by filing a petition with the Board setting forth the reasons why he or she should be admitted to practice law in Tennessee. The Board shall then conduct a hearing in response to the petition, according to the guidelines set forth in section 13.03, for the purpose of assessing the applicant's reputation, character, knowledge, skills and abilities. After considering the totality of the proof presented, the Board shall make a recommendation to this Court either for approval or denial of the petition or for such other action as the Board may deem appropriate. Any applicant whose petition for waiver of subsection (a)(i) is denied by the Board may file a petition for review in this Court pursuant to the procedures set forth in Article XIV.

**(c) Active Practice of Law.**

(i) For the purposes of this rule, in addition to the definitions of “Practice of Law” and “Law Business” in T.C.A. § 23-3-101, the “active practice of law” shall include the following activities, if performed in a jurisdiction in which the applicant is admitted, or if performed in a jurisdiction that permits such activity by a lawyer not admitted to practice::

- (1) full-time private or public practice as a licensed attorney;
- (2) teaching law full-time at a law school approved by the American Bar Association;
- (3) service as a judicial law clerk; and
- (4) service as a judge.

However, in no event shall any activities that were performed pursuant to § 10.04 of this Rule or performed in advance of bar admission in some state, territory or the District of Columbia, be accepted toward the durational requirement.

(ii) For the purposes of this rule, in addition to the definitions of “Practice of Law” and “Law Business” in T.C.A. § 23-3-101, the “active practice of law” may be construed in the Board's discretion as being actively engaged in other full-time employment requiring interpretation of law and application of legal knowledge if performed in a jurisdiction in which the applicant is admitted, or if performed in a jurisdiction that permits such activity by a lawyer not admitted to practice; however, in no event shall any activities that were performed in advance of bar admission in some state, territory or the District of Columbia be accepted toward the durational requirement. The Board shall consider such evaluative criteria as time devoted to legal work, the nature of the work, whether legal training or a law license was a prerequisite of employment, and other similar matters. Notwithstanding the foregoing, the “active practice of law” is further defined to require that at all times in the durational period the applicant has:

- (1) held a law license in “active” status;

(2) spent one thousand (1,000) hours or more per year engaged in the practice of law, for each of the required five years in the durational period; and

(3) derived at least fifty percent (50%) of non-investment income from the practice of law.

**(d) Unauthorized Practice of Law.** For purposes of this rule, the active practice of law shall not include work that, as undertaken, constituted the unauthorized practice of law in the jurisdiction in which it was performed or in the jurisdiction in which the clients receiving the unauthorized services were located.

**(e) Previous Tennessee Bar Examination.** An applicant who has failed a bar examination administered in this jurisdiction within five years of the date of filing an application under this Rule shall not be eligible for admission on motion.

**(f) Admission on Motion Application and Fees.** Any applicant seeking admission on motion to the practice of law in Tennessee shall:

(i) file an application for admission on motion, including character investigation information,

in a manner established by the Board, including all required supporting documents;

(ii) submit a certificate of good standing from the highest court of each state to which applicant has been admitted; and

(ii) pay the application fee as established by the Court.

**(g) Practice prior to Admission; when allowed.** An applicant seeking admission on motion to the practice of law in Tennessee shall file the application as provided in paragraph (g) prior to beginning practice in Tennessee and must either:

(i) be approved by the Board, complied with Tenn. Sup. Ct. R. 6 for admission to the bar, and completed all licensing requirements; or

(ii) complied with the provisions of Section 10.04 of this Rule to practice under the supervision of a licensed Tennessee attorney.

### **Sec. 5.02. Additional Considerations.**

In determining whether such applicants satisfy the requirements of Section 5.01, the Board shall consider any evidence submitted by the applicant in an effort to demonstrate that the applicant possesses the knowledge, skill and abilities basic to competence in the profession.

[Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19, 1992.]

### **Sec. 5.03. ~~Transferred.~~**

*Reason for changes: This provision has been re-written to clarify the language and to close a gap for attorneys who come to Tennessee unexpectedly and need to practice while completing the licensing process. The revisions allow attorneys licensed in another state to work while completing the licensing process either by exam or without examination. The provision also specifies what constitutes full time practice of law.*

## **ARTICLE VI. CHARACTER AND FITNESS INVESTIGATION**

### **Sec. 6.01. Applicable Standard.**

(a) An applicant shall not be admitted if in the judgment of the Board there is reasonable doubt as to that applicant's honesty, respect for the rights of others, and adherence to and obedience to the Constitution and laws of the State and Nation as to justify the conclusion that such applicant is not likely to adhere to the duties and standards of conduct imposed on attorneys in this State. Any conduct which would constitute grounds for discipline if engaged in by an attorney in this State shall be considered by the Board in making its evaluation of the character of an applicant.

(b) The Board may adopt statements of policy to implement the application of the foregoing standard.

### **Sec. 6.02. Investigatory Committees.**

(a) In order to assist the Board in conducting character investigations of applicants, the Supreme Court shall appoint one or more investigating committees within each disciplinary district established under Rule 9. Each committee shall consist of not less than five (5) nor more than thirty (30) members of the Bar of this State who maintain an office for the practice of law within that district and who are in good standing; provided, however, that the District 5 committee may have up to sixty (60) members. Attorneys who teach in any capacity in any of the state's ABA accredited or state-approved law schools are ineligible to serve as members of the Investigatory Committees. The Board may recommend to the Court the creation of additional committees or the increase in membership of any committee.

(b) The members of each investigating committee shall be appointed from time to time by the Supreme Court and shall serve at the pleasure of the Court for terms of up to five (5) years. Members may be reappointed to serve a second five-year term. Members of an investigating committee may be recommended by the President or Board of Directors of the local bar association or associations in the district, the President or Board of Governors of the Tennessee Bar Association, members of the Board, or members of the investigatory committee in the district in which the vacancy exists.

(c) The Court shall select each committee chair. The chair shall be responsible for the administration of the work of the committee.

(d) The Executive Director shall provide an annual report to the Court in September listing the names of the members of each committee and the name of the committee chair, as well as a report of recommendations from the Board regarding the size of any committee.

### **Sec. 6.03. Investigating Procedures.**

(a) Each application shall be referred first to a member of the Board for preliminary review for the purpose of: (i) detecting any deficiencies in the application; and (ii) determining whether any additional information is needed with respect to any aspect of the application.

(b) As part of the character and fitness requirement for licensing, each applicant is required to have a current completed background investigation conducted by the National Conference of Bar Examiners (NCBE). It is the responsibility of each applicant to make the request to the NCBE

for a background investigation and pay the required fee directly to the NCBE. In the event an applicant has not been licensed within two years of submission of the original background investigation, the applicant must request a supplemental investigation at that time and every two years thereafter, until the applicant is licensed, or the application is withdrawn or denied.

(c) The Executive Director shall transmit the application and the results of the background investigation, if available at the time of the interview, to the chair of the appropriate investigating committee. The chair shall assign applications to committee members for review, interview and investigation.

(d) On the receipt of an application, the investigating committee member to whom the application has been assigned shall review same and such other information as may be transmitted by the Executive Director and shall conduct such investigation as appears to him or her to be appropriate. In any event, each applicant referred to a committee shall be interviewed in person by a member of that committee. In conducting such investigations, the investigating committee member may take statements from the applicant and from such other persons as may be considered appropriate.

(e) On the completion of the investigation, the investigating committee member shall report his or her findings to the Board, in the form directed by the Board, and shall make such recommendations either for approval of the application, the issuance of a Show Cause Order by the Board, or for such other action as the committee member may deem appropriate.

**Sec. 6.04. Certificate of Good Moral Character.** An applicant seeking admission to practice law in Tennessee must submit to the Board of Law Examiners, before permission is granted to take the Examination, a certificate from the dean or supervising authority of the law school from which the applicant graduated indicating that to the best of its knowledge and belief the candidate has demonstrated such reputation and character in the opinion of the law school that indicates no reasonable basis for substantial doubt that the applicant would adhere to the standards of conduct required of attorneys in this state and that the law school has provided full and complete information requested by the Board of Law Examiners regarding the character and fitness of the candidate. If the applicant has been previously admitted to another jurisdiction, a certificate of good standing from the highest court of each state to which applicant has been admitted must accompany the application to the Tennessee Board of Law Examiners. Without waiving the requirement of proof of good moral character, the Board, in its discretion and for exceptional circumstances shown by the applicant, may waive the requirement of a certificate of good standing from the highest court of each state to which applicant has been admitted.

*Amended by Order entered May 15, 2014.*

## **ARTICLE VII. FOREIGN-EDUCATED APPLICANTS**

### **Sec. 7.01. Eligibility to Take Examination.**

(a) Notwithstanding the provisions of § 2.01 and § 2.02, an applicant who has completed a course of study in and graduated from a law school in a foreign country, which law school was

then recognized and approved by the competent accrediting agency of such country, may qualify, in the discretion of the Board, to take the bar examination, provided that the applicant shall satisfy the Board that his or her undergraduate education and legal education were substantially equivalent to the requirements of this rule. Applicants shall furnish such additional information as may be required by the Board to enable the Board to determine the applicant's eligibility for such admission.

(b) In addition to the requirement in (a), above, the applicant shall also demonstrate to the satisfaction of the Board that he or she has successfully completed a program of at least 24 semester hours at a law school approved by the American Bar Association or has successfully earned one third of the credits necessary to graduate from a Tennessee law school approved by the Board under § 2.03. An applicant who graduated from a law school in a foreign country shall also comply with the other pertinent provisions of this rule and shall be required to pass the bar examination. that the applicant has been awarded, by a law school fully accredited by the American Bar Association or a Tennessee law school approved by the Board under § 2.03, an LL.M. Degree for the Practice of Law in the United States in a degree program that meets the following requirements:

(i) The degree program certifies to the Board, on such form prescribed by the Board, that the foreign-educated lawyer received his or her legal educations from a law school that is accredited by the American Bar Association or is a Tennessee law school approved by the Board pursuant to § 2.03;

(ii) The degree program prepares students for admission to the Bar and for effective and responsible participation in the United States legal profession; and

(iii) An LL.M. for the Practice of Law in the United States must be taught in English and in the United States or its territories and must be attended on site at the ABA accredited or Tennessee approved law school. The program may be full or part-time but, if part-time, the LL.M. must be completed within 36 months.

[Amended by order filed August 23, 1993 and entered nunc pro tunc effective October 19, 1992; amended by order filed May 29, 2009, effective August 1, 2010; and amended by order filed July 21, 2011, effective September 1, 2011.]

**Sec. 7.02. Additional Information on Licensed Foreign from Applicants Licensed in a Foreign Country.**

Any applicant licensed to practice in a foreign country desiring admission in Tennessee shall be required to pass the examination and shall supplement the application with the following documents:

(i)a) a certified copy of the record or license of the court or agency which admitted applicant to practice law in such country, and

(ii)b) at least 3 letters from attorneys or judges in such foreign country certifying that applicant is in good standing at that bar, or was in good standing at that bar when applicant left that foreign country.

[Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19, 1992.]

*Reason for changes: The title change provides clarity regarding who must comply with the provisions. Numbering changes were made to provide consistency with the balance of the rule. Also, a new requirement that the foreign-educated applicant must receive an LL.M. has been added. Changes requiring an LL.M. rather than a stated number of credit hours in an LL.M. program and requiring the program to be taught in English in the United States removes any doubt as to the intent of the Board in proposing this revision to the Court. The additional sentence in § 7.01 allows the Board to require applicants to furnish educational equivalency computations from one of several nationally-recognized sources to insure that educational equivalency requirements are being met. Further, the additional education required by a foreign-educated applicant balances the additional practice requirement the Board recommends for admission of applicants from non-ABA accredited law schools.*

## **ARTICLE VIII. COMMITMENT TO SERVE THE ADMINISTRATION OF JUSTICE IN TENNESSEE**

### **Sec. 8.01. Applicable Standard.**

The requisite commitment to serve the administration of justice in Tennessee subject to the duties and standards imposed on attorneys in this State shall be evidenced by a statement by the applicant before examination, or admission by comity, that the applicant agrees to abide by the duties and standards imposed from time to time on attorneys in this State.

**Sec. 8.02. [Deleted.]**

**Sec. 8.03. [Deleted.]**

## **ARTICLE IX. ISSUANCE OF LICENSE—EFFECTIVE DATE OF ADMISSION**

### **Sec. 9.01. Certificate of Board.**

(a) Upon the completion of all requirements for ~~admission~~ licensing, including the payment of all required fees, the Board, acting through the ~~Administrator~~ Executive Director, shall certify to the Court that an applicant is eligible for admission and issue to the applicant a “Certificate of Eligibility for Admission.” The Board shall promptly notify the Clerk of the Supreme Court and the Board of Professional Responsibility of the issuance of the Certificate of Eligibility.

(b) The Certificate of Eligibility for Admission (the “Certificate of Eligibility”) shall be valid for 90 days from the date of issuance. The Board, for good cause shown and subject to the time limit imposed by section 1.02, may grant the applicant a reasonable extension of the time within which to complete the licensure process, including compliance with Rule 6, if the applicant

shows to the satisfaction of the Board that he or she is unable to complete the process within the 90-day period.

**Sec. 9.02. Issuance of License.**

(a) On the basis of the ~~certificate of the Board~~ Certificate of Eligibility, and upon the successful applicant's compliance with Rule 6, the Court shall issue a license admitting each the successful applicant to the bar of Tennessee. However, if at any time prior to the administering of the oath of admission, the Board receives notice of any event that would have changed the Board's decision to approve an applicant for licensing, the Board, in its discretion, may revoke the Certificate of Eligibility.

(b) The license shall be in such form as may be approved by the Court. Each such license shall be signed by the members of the Board and the members of the Court.

**Sec. 9.03. Effective Date of Admission.**

An applicant shall not be considered ~~as conditionally~~ admitted ~~on the completion of all the requirements for admission. The Board shall furnish such an applicant with a "Temporary Certificate of Eligibility to Practice Law," conditioned on final approval by the Court to the bar of Tennessee until issuance of a license by the Supreme Court and upon compliance with Rule 6.~~

**Sec. 9.04. Duty of Applicant to Inform Board of Subsequent Events.**

If at any time prior to the issuance of a license to an applicant he or she becomes aware of any fact or circumstance which might indicate that such applicant is not entitled to admission, such applicant shall promptly advise the Board of such fact or circumstances.

**Sec. 9.05. Disapproval by the Court.**

At any time prior to the actual issuance of a license by the Court, the Court may for good cause disapprove the issuance of such license. On such disapproval, the Court shall enter an order stating the grounds for such disapproval and may refer the matter to the Board for such further action as the Court may deem appropriate.

**Sec. 9.06. Replacement Licenses.**

For good cause shown, the Board may recommend to the Court the issuance of a replacement license to any person who has previously been licensed to practice law in Tennessee.

**Sec. 9.07 Denial of License.**

If the decision of the Board to deny an application is based, in whole or in part, on the failure of the applicant to demonstrate good moral character, due respect for the law, or fitness to practice law, the applicant may not reapply for admission within a period of thirty-six (36) months after the issuance of the order denying the application.

*Reason for changes: The provisions of Rule 7 relate to licensing; Rule 6, to administering the oath. Both are required to practice law. The changes make clear that the license will not be issued until the oath has been administered. This will prevent the “unintentional” unauthorized practice of law by those who receive a license but fail to appear for the administration of the oath. See also Article 1 above. Moreover, changes clarify that admission must be within two years of eligibility, which is published Board policy that has been approved by the Court. Otherwise, an applicant who is eligible may go years without CLE or BPR oversight prior to admission. The addition of Section 9.07 prevents serial filing of applications by applicants who have been determined unfit for the practice of law in Tennessee and gives the applicant time to remediate or address the issues that resulted in denial of the license.*

## **ARTICLE X. SPECIAL OR LIMITED PRACTICE**

### **Sec. 10.01. Registration of In-house Counsel**

(a) A lawyer admitted to the practice of law in another United States jurisdiction who has a continuous presence in this jurisdiction and is employed pursuant to Tenn. Sup. Ct. R. 8, RPC 5.5(d)(1) as a lawyer by an organization, the business of which is lawful and consists of activities other than the practice of law or the provision of legal services, shall file an application for registration as in-house counsel within 180 days of the commencement of employment as a lawyer or if currently so employed then within 180 days of the effective date of this rule, by submitting to the Board of Law Examiners the following:

- (i) A completed application in the form prescribed by the Board;
- (ii) A fee in the amount set by the Board pursuant to Article XI;
- (iii) Documents proving admission to practice law and current good standing in all jurisdictions in which the lawyer is admitted to practice law; and
- (iv) An affidavit from an officer, director, or general counsel of the employing entity attesting to the lawyer's employment by the entity and the capacity in which the lawyer is so employed, and stating that the employment conforms to the requirements of this rule.

(b) A lawyer registered under this section shall have the rights and privileges otherwise applicable to members of the bar of this jurisdiction with the following restrictions:

- (i) The registered lawyer is authorized to provide legal services to the entity client or its organizational affiliates, including entities that control, are controlled by, or are under common control with the employer, and for employees, officers and directors of such entities, but only on matters directly related to their work for the entity and only to the extent consistent with Tenn. Sup. Ct. R. 8, RPC 1.7; and
- (ii) The registered lawyer shall not:

(A) Except as otherwise permitted by the rules of this jurisdiction, appear before a court or any other tribunal as defined in Tenn. Sup. Ct. R. 8, RPC 1-~~0(n)~~,(m), or

(B) Offer or provide legal services or advice to any person other than as described in paragraph (b)(i), or hold himself or herself out as being authorized to practice law in this jurisdiction other than as described in paragraph (b)(i).

(c) Notwithstanding the provisions of paragraph (b) above, a lawyer registered under this section is authorized to provide pro bono legal services through an established not-for-profit bar association, pro bono program or legal services program or through such organization(s) specifically authorized in this jurisdiction.

(d) A lawyer registered under this section shall:

(i) Pay all annual fees payable by active members of the bar;

(ii) Fulfill the continuing legal education requirements that are required of active members of the bar;

(iii) Report to the Board, within 30 days, the following:

(A) Termination of the lawyer's employment;

(B) Whether or not public, any change in the lawyer's license status in another jurisdiction, including by the lawyer's resignation;

(C) Whether or not public, any disciplinary charge, finding, or sanction concerning the lawyer by any disciplinary authority, court, or other tribunal in any jurisdiction.

(e) A ~~registered~~ lawyer who is registered or who is required to register under this section shall be subject to Tenn. Sup. Ct. R. 8 (Rules of Professional Conduct) and all other laws and rules governing lawyers admitted to the active practice of law in this jurisdiction. The Board of Professional Responsibility has and shall retain jurisdiction over the ~~registered~~ lawyer who is registered or required to register with respect to the conduct of the lawyer in this or another jurisdiction to the same extent as it has over lawyers generally admitted in this jurisdiction.

(f) A registered lawyer's rights and privileges under this section automatically terminate when:

(i) The lawyer's employment terminates;

(ii) The lawyer is suspended or disbarred from practice in any jurisdiction or any court or agency before which the lawyer is admitted; or

(iii) The lawyer fails to maintain active status in at least one jurisdiction.

Upon the occurrence of one or more of the foregoing events, the registered lawyer shall give notice in writing within 30 days to the Board and to the Board of Professional Responsibility.

*Reason for change: Presently, the Rule does not include a provision for giving notice to the BPR or Board upon termination, suspension/disbarment, or inactive status.*

(g) A registered lawyer whose registration is terminated under paragraph (f)(i) above, may be reinstated within 180 days of termination upon submission to the Board of the following:

- (i) An application for reinstatement in a form prescribed by the Board;
- (ii) A reinstatement fee set by the Board pursuant to Article XI; and
- (iii) An affidavit from the current employing entity as prescribed in paragraph (a)(iv).

*Reason for change: The inclusion of “and” makes clear that all three items are required.*

(h) A lawyer under this rule who fails to register days shall be:

- (i) Subject to professional discipline in this jurisdiction;
- (ii) Ineligible for admission pursuant to Article V of this rule;
- (iii) Referred by the Board of Law Examiners to the Board of Professional Responsibility; and
- (iv) Referred by the Board to the disciplinary authority of the jurisdictions of licensure.

(i) A lawyer seeking to practice in this State under the authority of Tenn. Sup. Ct. R. 8, RPC 5.5(d)(1) and who complies fully with the requirements of this Rule on or before ~~June 30, 2010~~ [180 days from enactment] shall not be barred from registration under this Rule, admission pursuant to Article V of this Rule, or from practicing under the authority of RPC 5.5(d)(1) solely by the fact of prior noncompliance with Tennessee law concerning licensure of in-house counsel, ~~including RPC 5.5 in the form in which it was in force from and after March 1, 2003.~~

[Amended by order filed October 23, 2009, effective January 1, 2010; and amended by order filed January 18, 2012.]

*Reason for change: Paragraph (i) has been revised to provide amnesty for those who have not previously registered. The Board and staff of the BLE will work diligently to educate and advise corporations and counsel in TN of the registration requirements and perils of failure to register within the time limits. With the change, the Board proposes a change to Rule 8, RPC 5.5 to move from the comments to the body of RPC 5.5 (d), the requirement to register pursuant to this section if serving as In-House Counsel.*

#### **Sec. 10.02. Attorneys in Clinical and Related Law School Programs.**

(a) An attorney who is enrolled or employed in a clinical program in an approved Tennessee law school or who, after graduation from an approved law school, is employed by or associated with an organized legal services program operated by an approved Tennessee law school providing legal assistance to indigents in civil or criminal matters, and who is a member of a court of last

resort of another state (the term “state” including Territories and the District of Columbia) shall be admitted to practice before the courts of this State in all causes in which that attorney is associated with a legal clinic operated in conjunction with an approved law school. Admission to practice under this Rule shall be limited to the above causes and shall become effective upon filing with the ~~Secretary of the Board of Bar Examiners of the State of Tennessee.~~ :

(i) A certificate of any court of last resort certifying that the attorney is a member in good standing at the bar of that court; and

(ii) A statement signed by the Dean of the law school that the attorney is enrolled or employed in a clinical program in an approved Tennessee law school.

(b) When the above requirements are met to the satisfaction of the ~~State Board of Law Examiners,~~ ~~they~~ it shall grant admission to practice to the applicant and shall certify such by letter to the applicant.

(c) Admission to practice under the Rule shall cease to be effective whenever the attorney ceases to be enrolled in or associated with such program. When an attorney admitted under this Rule ceases to be so enrolled or associated, a statement to that effect shall be filed with the ~~Secretary of the Board of Bar Examiners of the State of Tennessee~~ by a representative of the law school or legal services program. In no event shall admission to practice under this Rule remain in effect longer than 2 years for any individual admitted under this Rule, except in the discretion of the Supreme Court in special situations for good cause shown. Attorneys who wish to continue to practice in the State must seek admission by examination or without examination so that they are eligible for licensing prior to the expiration of the two year period.

(d) Attorneys admitted to practice under this Rule may be suspended from practice in the manner now or hereafter provided by Rule for the suspension or disbarment of attorneys.

*Reason for changes: The requirement to file with the Secretary of the Board is removed to make consistent with other provisions of the Rule. The requirement to seek other licensing options prior to expiration of the two year time limit takes into consideration the time required to complete the application, testing (if required) and investigation process for licensing and requirements of both this Rule and the Disciplinary Rules regarding practicing without a license*

### **Sec. 10.03. Law Student Practice**

(a) Any law student who has successfully completed one-half of the legal studies required for graduation from any school of law from which a graduate is eligible under this rule to take the Tennessee bar examination may, with the written approval of the Supreme Court of Tennessee, provide legal services to, and/or may appear in any municipal, county, or state court on behalf of, any person or entity financially unable to afford counsel or on behalf of the state of Tennessee or of any municipal or county government; provided, however, that the law student is participating in a law school clinical program, furnishing assistance through a legal aid program, or serving as

an assistant to a District Attorney, Public Defender, the State's Attorney General, the general counsel of any state agency, or a county or municipal legal director's office, and that the law student is under the immediate and personal supervision of a member of the law school's faculty, a licensed legal aid attorney, a District Public Defender or designated Assistant District Attorney General, a District Public Defender or designate Assistant District Public Defender, the Attorney General of Tennessee or any assistant in his or her office, the general counsel of any state agency or any staff attorney in his or her office, or the director of a county or municipal legal office or designated staff attorney.

(b) Before any student shall be eligible to provide legal services and/or appear in court under this rule, the dean of the approved law school or the director of the law school clinical program shall file with the Supreme Court of Tennessee for its approval a list of students who are eligible for certification under this Rule and certify to the Supreme Court that such students meet the requirements of this Rule. Upon written approval by the Supreme Court of Tennessee of such students so selected and certified, such approved students shall be and are thereby authorized to provide legal services and/or appear in any municipal, county or state court on behalf of any person or entity financially unable to afford counsel, the state of Tennessee, or any municipality or county in the State of Tennessee in a manner consistent with the requirements of this rule.

(c) The Board shall approve a law school's clinical program and shall certify such approval to the Supreme Court of the State of Tennessee as a prerequisite for the approval of law students who are practicing under this Rule in a clinical setting. The criteria for approval shall be:

(i) that the law school itself is approved under the foregoing sections of this Rule;

(ii) that if the law school has an in-house legal clinic which directly represents clients, that the program has a full-time faculty member as director, who is an attorney licensed to practice law in Tennessee; and

(iii) that the law school clinical program is otherwise operated in a manner consistent with the requirements of this rule.

Certification of approval of such law school clinical program may be withdrawn by the Board if the same ceases to meet this criterion.

(d) In the case of students working in a legal aid office, a Public Defender's Office, District Attorney's office, the office of the Attorney General of Tennessee, the office of the general counsel of any state agency, or the office of a municipal or county legal director, it shall be the responsibility of the director of clinical education or the dean of the law school to transmit to the legal aid office, Public Defender's Office, District Attorney's office, office of the Attorney General of Tennessee, office of the general counsel of any state agency, or the office of the municipal or county legal director the names of the students who are certified under this Rule.

(e) The written approval of such students by the Supreme Court of Tennessee shall be and remain in force and effect until the student graduates from law school or ceases to be enrolled in the law school.

### **Explanatory Comments.**

(1) The purpose of this Rule is educational; consequently, its focus is on providing opportunities for students to further their legal studies through properly supervised experiential education. Interpretation of this Rule should be in accordance with its educational goal.

(2) The term “approved law school” refers to any law school in the state of Tennessee that has been accredited by the ABA or any law school in the state of Tennessee approved under Rule 7 § 2.03 of this Court.

(3) In order to provide consistency between three and four year law school programs, the Rule allows for certification of a student who has completed at least half of his or her law school studies. At a four year law school, a student is eligible for certification under this Rule after successful completion of two years of law school, while at a three year law school, a student is eligible after successful completion of three semesters.

(4) The term “provide legal services” is to be construed broadly, so as to allow a law student who is admitted under this Rule to provide any and all services that could be provided by a licensed attorney. Students admitted under this Rule may also appear in capacities such as guardian ad litem where the person whose interests are represented would qualify for appointed counsel.

(5) Students shall be personally and directly supervised by a clinical faculty member or legal aid lawyer, public defender, district attorney, assistant Attorney General, staff attorney for a state agency or staff attorney at a metropolitan legal office when appearing in court or tribunal; however, it is not necessary that the licensed attorney be personally present when the student engages in other activities such as interviewing, investigation and negotiation. It is, however, the responsibility of the licensed attorney to ensure that the student is properly supervised and instructed, including compliance with Rule of Professional Conduct 5.3.

(6) “Person or entity financially unable to afford counsel” includes all persons who would be termed “indigent” by a legal aid provider, all persons whom any court deems eligible for the appointment of counsel, as well as persons and organizations who have unsuccessfully attempted to secure legal counsel or who can otherwise demonstrate to the satisfaction of the clinic director that they cannot reasonably afford counsel . The term also encompasses any organization which is composed of a majority of persons who meet the federal definition of “indigency” as well as any not-for profit organization the purpose of which is to assist “indigent” persons.

(7) When the dean or director of clinical education certifies to the court that a student has met the conditions for admission under this Rule, the dean or director is certifying that the student is in good standing and has successfully completed sufficient credit hours to satisfy the minimum requirements for the second half of law school. A student will be deemed to have successfully completed the requisite amount of credits when he or she has been deemed to have passed (rather than simply have completed) sufficient courses.

(8) A law school clinical program includes a live-client clinic within the law school, an externship program operated by the law school - regardless whether it is a part of the legal clinic- or any other law school credit-bearing activity that involves the representation of clients.

(9) A student may be certified under this Rule and represent clients under the provisions of this Rule when working at a legal aid office, district attorney's office, public defender's office, office of the Attorney General of Tennessee, office of the general counsel of any state agency or the office of the director of a municipal or county law department whether or not the student is receiving law school credit for that work. It is the responsibility of the dean or clinic director at the school at which the student is enrolled to ensure that the supervision provided by the legal aid office, public defender, district attorney, Attorney General, general counsel of a state agency or Metropolitan Legal office is adequate under the Rule.

(10) The terms director of a municipal or county law office or director of a municipal or county law department presume an office within the county or municipality which represents the county or municipality. For such an office to be recognized under this Rule, there must be at least one attorney in that office whose full-time employment is as the attorney for the municipality or county.

[Amended by order filed June 5, 2006.]

**Explanatory Comment [2008].**

Subsection 10.03(a) is amended so that, to be eligible to provide legal services under this section, a law student is no longer required to attend a law school located in the state of Tennessee. Rather the amendment extends the provisions of this section to students enrolled in any law school from which a graduate would be eligible to take the Tennessee Bar Examination.

~~**Sec. 10.04. Law School Graduates.** Any Tennessee resident who shall have graduated from a law school accredited by the American Bar Association or approved by the Tennessee Board of Law Examiners, as provided in this Rule, and who establishes preliminary eligibility to take the examination given by the Board, shall be permitted to engage in practice on a limited and conditional basis. To obtain preliminary eligibility the applicant must submit a written request to the Board, which shall include a Notice of Intent and application to take the bar examination in Tennessee and written verification from an appropriate supervisor undertaking the duties to supervise the applicant under these provisions. The limited and conditional practice of the applicant shall comply with the following guidelines:~~

~~(a) Office Practice. Such person may:~~

~~(i) Engage in legal research, without limitation;~~

~~(ii) Prepare memoranda of law for regularly admitted practicing lawyers, without limitation;~~

~~(iii) Prepare legal memoranda and briefs for submission to any court, under the immediate supervision of any member of the bar; and~~

~~(iv) Assist any member of the bar in any area in office practice.~~

~~Such person may not:~~

~~(i) Advise clients, except in the personal presence and under the supervision of a member of the bar; and~~

~~(ii) Make any direct charge, or receive any compensation for such person's services, provided, however, any member of the bar with whom the person is associated may make an appropriate charge for the time so expended. Under no circumstances shall such compensation be divided, nor shall it be considered in establishing a rate of compensation for such person.~~

~~(b) Court Appearances. Such person may:~~

~~(i) Practice in any court which is not a court of record, without supervision, with the permission of the judge thereof, but not in any case wherein there is a constitutional or statutory right to counsel;~~

~~(ii) Present argument in any court, on any motion or matter addressing itself to the consideration of the trial judge only, without supervision but subject to the permission of the trial judge; and~~

~~(iii) In the presence of, in association with, and under the supervision of a member of the bar, the person may engage generally in any trial or proceeding before any trial court, governing body, or administrative agency, but subject to the consent of the client.~~

~~Such person may not:~~

~~(i) Appear without the immediate supervision of a member of the bar in any governing body or administrative agency; and~~

~~(ii) Make any direct charge, or receive any compensation for such person's services, provided, however, any member of the bar with whom the person is associated, may make an appropriate charge for the time so expended. Under no circumstances shall such compensation be divided nor shall it be considered in establishing a rate of compensation.~~

~~Trial judges shall in all cases insure that this Rule be construed and applied in such a manner as to give strict protection to the constitutional right to the effective representation of counsel.~~

~~The right to engage in limited and supervised practice, as herein defined and delineated shall begin on the date of notification of preliminary eligibility upon application to take the bar examination and shall continue until a determination by the Tennessee Board of Law Examiners of ineligibility to take the bar examination or through the day and date of the announcement of the results of the second bar examination conducted after graduation of the applicant, whichever shall first occur.~~

~~Any person who otherwise meets all qualifications contemplated in this Rule, but who is unable to make a tentative connection or association with a practicing lawyer or law firm may make application to any trial judge holding court in the county of such person's residence, or wherein the person intends to practice, for aid in the establishment of a limited and supervised practice under this Rule. Trial judges are admonished that such practice must accord strictly with the foregoing provisions of the Rule. No deviation will be permitted.~~

~~It is the intent of this Rule to recognize that there is a hiatus between graduation and successful completion of the bar, during which the potential lawyer's education, training and experience are unnecessarily disrupted. The Court is advised that the overwhelming majority of law school graduates successfully complete the bar within 10 months after their graduation. It is the intent~~

~~and purpose of this Rule to remove this impediment to a potential lawyer's continuing legal education and simultaneously to safeguard and protect the public interest.~~

~~[As amended by order filed September 11, 1984; by order filed April 15, 1999, effective May 1, 1999.]~~

**Sec. 10.04 Practice before Admission.**

**(a) Eligibility.**

(i) An applicant who is working in Tennessee under supervision by a Tennessee attorney, who meets the educational requirements of Sec. 2.01, and who

(1) has not yet had an opportunity to take the Tennessee bar examination,

(2) has taken the examination but not yet received notification of the results of the examination,

(3) has submitted an application for admission without examination pursuant to Article V, or

(3) has taken the examination, but has not yet been admitted as a member of the Tennessee bar,

may register with the Board in order to perform the services described in paragraph (c) of this rule.

(ii) An applicant is eligible for supervised practice beginning with the submission of the first Application to the Bar of Tennessee with or without examination. The privilege to engage in supervised practice expires on the date of the admissions ceremony for successful examination applicants, grade release for unsuccessful applicants, approval or denial of the application for admission without examination, or issuance of an Order to Show Cause.

(iii) An applicant who is licensed in another jurisdiction and seeking admission under Article V must apply for admission prior to beginning practice in Tennessee under this provision and must have met the requirements for being actively engaged in the practice of law prior to beginning practice in Tennessee unless such practice complies with Tenn. Sup. Ct. R. 8, RPC 5.5.

(iv) Applicants who are unsuccessful on the examination may register for supervised practice for an additional exam cycle.

(v) The privilege to engage in supervised practice continues for two (2) exam cycles but no longer than eighteen (18) months after the first Application to the Bar of Tennessee.

**(b) Registration Process.** In order to perform the services described in paragraph (c), the applicant must have submitted to the Board the NCBE application, completed the Tennessee Supplemental application process and paid the fees associated with the application. Additionally, the applicant must have registered for supervised practice according to the procedures established by the Board and paid the required fee. The registration must include an affidavit

from an attorney licensed and in good standing in Tennessee stating that the attorney agrees to undertake the supervision of the applicant in accordance with this Rule.

(c) **Services Permitted.** Under the supervision of a member of the bar of this State, and with the written consent of the person on whose behalf the applicant is acting, an eligible applicant may render the following services:

(i) Applicant may counsel and advise clients, negotiate in the settlement of claims, represent clients in mediation and other nonlitigation matters, and engage in the preparation and drafting of legal instruments. Any such documents prepared by the applicant may be signed with the accompanying designation "Tennessee Bar Applicant" but must also be signed by the supervising member of the bar.

(ii) Applicant may appear in the trial courts, courts of review and administrative tribunals of this state, including court-annexed arbitration and mediation, subject to the following qualifications:

(1) Written consent to representation of the person on whose behalf the applicant is acting shall be filed in the case and brought to the attention of the judge or presiding officer.

(2) Appearances, pleadings, motions, and other documents to be filed with the court may be prepared by the applicant and may be signed with the accompanying designation "Tennessee Bar Applicant" but must also be signed by the supervising member of the bar.

(3) In criminal cases, in which the penalty may be imprisonment, in proceedings challenging sentences of imprisonment, and in civil or criminal contempt proceedings, the applicant may participate in pretrial, trial, and post-trial proceedings as an assistant of the supervising member of the bar, who shall be present and responsible for the conduct of the proceedings.

(4) In all other civil and criminal cases in the trial courts or administrative tribunals, the applicant may conduct all pretrial, trial, and post-trial proceedings with the supervising attorney present unless the applicant is permitted by the judge or presiding officer participate without direct supervision.

(iii) In matters before courts of review, the applicant may prepare briefs, excerpts from record, abstracts, and other documents filed in courts of review of the State, which may set forth the name of the applicant with the accompanying designation "Tennessee Bar Applicant" but must be filed in the name of the supervising member of the bar. Upon motion by the supervising member of the bar, the applicant may request authorization to argue the matter before the court of review. If the applicant is permitted to argue, the supervising member of the bar must be present and responsible for the conduct of the hearing.

(d) **Compensation.** A applicant rendering services authorized by this rule shall not request or accept any compensation from the person for whom applicant renders the services. The supervising attorney may make an appropriate charge at a rate commensurate with the skill and experience of the person performing the services for time expended. The applicant may be compensated as an employee of a firm, agency, clinic or other organization so long as the rate of such compensation is established independent of compensation paid for representation.

(e) Any applicant who otherwise meets all the qualifications contemplated in this Rule, but who is unable to make a connection or association with a practicing attorney for purposes of serving as a supervising attorney as required by this Rule may make application to any trial judge holding court in the county of such applicant's residence for aid in the establishment of a supervised practice under this Rule. Trial judges are admonished that such practice must accord strictly with the provisions of this Rule. No deviation will be permitted.

*Reason for changes: This provision has been re-written to clarify the language and to provide a way for licensed attorneys who come to Tennessee to practice while completing the licensing process. This section has allowed graduates of law schools to work while waiting for exam results; the revisions allow attorneys licensed in another state to work while completing the licensing process either by exam or without examination. Subparagraph (b) includes a provision for a fee for this registration.*

**Sec. 10.05. Conditional Admission.**

An applicant whose previous conduct or behavior would or might result in a denial of admission may be conditionally admitted to the practice of law upon a showing of sufficient rehabilitation and/or mitigating circumstances. The Board of Law Examiners shall recommend relevant conditions relative to the conduct or the cause of such conduct with which the applicant must comply during the period of conditional admission.

(a) Conditions. The Board of Law Examiners may recommend that an applicant's admission be conditioned on the applicant's complying with conditions that are designed to detect behavior that could render the applicant unfit to practice law and to protect the clients and the public, such as submitting to alcohol, drug, or mental health treatment; medical, psychological, or psychiatric care; participation in group therapy or support; random chemical screening; office practice or debt management counseling; and monitoring, supervision; mentoring or other conditions deemed appropriate by the Board of Law Examiners. The conditions shall be tailored to detect recurrence of the conduct or behavior which could render an applicant unfit to practice law or pose a risk to clients or the public and to encourage continued abstinence, treatment, or other support. The conditions should be established on the basis of clinical or other appropriate evaluations, take into consideration the recommendations of qualified professionals, when appropriate, and protect the privacy interests of the conditionally admitted lawyer to professional treatment records to the extent possible. The terms shall be set forth in a confidential order (the "Conditional Admission Order"). The Conditional Admission Order shall be made a part of the

conditionally admitted lawyer's application file and shall remain confidential, except as provided in this and any other applicable rules. The Board shall issue the Temporary Certificate of Eligibility for Admission pursuant to Sec. 9.01 upon completion of the registration process after issuance of the Conditional Admission Order. The Board of Law Examiners shall have no further authority over the conditionally admitted lawyer once such lawyer obtains a license to practice law.

*Reason for change: The change clarifies when the Board begins the licensing process under Article 9 for a conditionally admitted lawyer.*

(b) Notification to the Board of Professional Responsibility. Immediately upon issuance of a Conditional Admission Order, the Board of Law Examiners shall transmit a copy of the order to the Board of Professional Responsibility. If the Board of Professional Responsibility or any other jurisdiction's disciplinary authority receives a complaint alleging unprofessional conduct by the conditionally admitted lawyer, or if the Monitoring Authority designated pursuant to paragraph (d) notifies the Board of Professional Responsibility of substantial noncompliance with the Conditional Admission Order, the Board of Professional Responsibility shall request a copy of relevant portions of the lawyer's bar application file, and the Board of Law Examiners shall promptly provide the requested materials to the Board of Professional Responsibility.

(c) Length of Conditional Admission. The conditional admission period shall be set in the Conditional Admission Order, but shall not exceed sixty (60) months, unless notification of substantial noncompliance with the Conditional Admission Order has been received by the Board of Professional Responsibility or a complaint of unprofessional conduct has been made against the conditionally admitted lawyer with the Board of Professional Responsibility or any other lawyer disciplinary authority.

(d) Compliance with Conditional Admission Order. During the conditional admission period, the Monitoring Authority shall be the Tennessee Lawyers Assistance Program. The Tennessee Lawyers Assistance Program shall take such action as is necessary to monitor compliance with the terms of the Conditional Admission Order, including, but not limited to, requiring that the conditionally admitted lawyer submit written verification of compliance with the conditions, appear before the Tennessee Lawyers Assistance Program monitor, and provide information requested by the monitor or the Tennessee Lawyers Assistance Program.

(e) Costs of Conditional Admission. The applicant shall be responsible for any direct costs of investigation, testing and monitoring. Other costs shall be borne in accord with this or any other applicable Supreme Court Rule.

(f) Failure to Fulfill the Terms of Conditional Admission. Failure of a conditionally admitted lawyer to fulfill the terms of a Conditional Admission Order may result in a modification of the Order that may include extension of the period of conditional admission, suspension or revocation of the Conditional Admission Order or such other action as may be appropriate under Supreme Court Rule 9, including temporary suspension pursuant to Supreme Court Rule 9, § 12.3. The Tennessee Lawyers Assistance Program shall promptly notify the Board of

Professional Responsibility whenever it determines that the conditionally admitted lawyer is in substantial noncompliance with the terms of the Conditional Admission Order. Notification of such failure by the Tennessee Lawyers Assistance Program shall automatically extend the conditional admission until disposition of the matter by the Board of Professional Responsibility and any resulting appeals.

~~(g) Violation of Conditional Admission Order. If the Tennessee Lawyers Assistance Program determines that the terms of the Conditional Admission Order have been violated, the Tennessee Lawyers Assistance Program shall notify the Board of Professional Responsibility to initiate proceedings to determine whether the conditional admission should be revoked, extended or modified. Consideration and disposition of any such notice to the Board of Professional Responsibility shall be governed by Supreme Court Rule 9. Any decision to extend or modify the Conditional Admission Order must be made in consultation with the Tennessee Lawyers Assistance Programs.~~

The Board of Professional Responsibility shall initiate proceedings to determine whether the conditional admission should be revoked, extended or modified by filing a petition to review conditional admission. Consideration and disposition of any such petition shall follow the procedure for formal proceedings as set forth in Tenn. Sup. Ct. R. 9; however, the only issue to be determined is whether the conditional admission should be revoked, extended or modified. Any decision to extend or modify the Conditional Admission Order must be made in consultation with the Tennessee Lawyers Assistance Programs. If the conditionally admitted attorney was temporarily suspended due to substantial noncompliance with a monitoring agreement, any disposition of the petition to review conditional admission may include dissolution of the temporary suspension.

*Reason for change: The change clarifies the process employed by the Board of Professional Responsibility when a conditionally admitted attorney is not in compliance with the conditional admission order. Changes were suggested by S. Garrett of BPR.*

(h) Expiration of Conditional Admission Order. Unless the Conditional Admission Order is revoked or extended as provided herein, upon completion of the period of conditional admission, the conditions imposed by the Conditional Admission Order shall expire. The Tennessee Lawyers Assistance Program shall notify the Board of Professional Responsibility of such expiration.

(i) Confidentiality. Except as otherwise provided herein, and unless this Court orders otherwise, the fact that an individual is conditionally admitted and the terms of the Conditional Admission Order shall be confidential provided that the applicant shall disclose the entry of any Conditional Admission Order to the admissions authority in any jurisdiction where the applicant applies for admission to practice law. In addition to ensuring that the relevant records of the Board of Law Examiners, the Board of Professional Responsibility and the Tennessee Lawyers Assistance Program are confidential, the Board of Law Examiners shall use reasonable efforts to structure the terms and conditions of the conditional admission so that the conditional admission does not

pose a significant risk to confidentiality. These provisions for confidentiality shall not prohibit or restrict the ability of the applicant to disclose to third parties that the applicant has been conditionally admitted under this Rule, nor prohibit requiring third-party verification of compliance with the terms of the Conditional Admission Order by admission authorities in jurisdictions to which the conditionally admitted lawyer may subsequently apply.

(j) Education. The Board of Law Examiners shall make information about its conditional admission process publicly available and shall reasonably cooperate with the Tennessee Lawyers Assistance Program in its efforts to educate law students, law school administrators and applicants for bar admission regarding the nature and extent of chemical abuse, dependency, and mental health concerns that affect law students and lawyers.

(k) Disciplinary Complaints. The provisions of this rule shall not affect the authority of the Board of Professional Responsibility, pursuant to Tenn. Sup. Ct. R. 9, to investigate a complaint filed against a conditionally admitted lawyer by a person or entity other than the Tennessee Lawyers Assistance Program, to recommend a disposition of such complaint pursuant to Tenn. Sup. Ct. R. 9, 8.1, or to initiate a formal disciplinary proceeding as to such complaint, pursuant to Tenn. Sup. Ct. R. 9, 8 8.2.

[Section 10.05 amended by Order filed September 3, 2009]

## **ARTICLE XI. FEES**

### **Sec. 11.01. Schedule of Fees.**

The Board shall adopt, from time to time, a schedule of fees to be paid by applicants. No fee shall be charged without the approval of the Court.

### **Sec. 11.02. Payment Mandatory.**

No step in the admissions process may be taken except upon the payment of the fees required for that step. No license will be issued until all fees due from the applicant have been paid.

### **Sec. 11.03. Refunds.**

Fees are non-transferable and non-refundable, except that ½ the fee for examination or re-examination, not including any other fee, may be refunded if applicant withdraws from the exam by February 15 for the February examination and July 15 for the July examination.

*Reason for change: This makes the rule consistent with the policy stated in the fee schedule that has been the practice of the Board.*

## **ARTICLE XII. ORGANIZATION AND POWERS OF BOARD**

### **Sec. 12.01. Composition of Board and Term.**

The Board shall consist of five attorneys licensed to practice law in this State and in good standing. The Board members shall be appointed to three-year terms by the Court. No member who has served three successive three-year terms shall be eligible for reappointment to the Board until three years after the termination of the most recent term.

[Amended by order filed November 15, 2013]

**Sec. 12.02. Officers and Allocation of Responsibilities.**

The officers of the Board shall consist of a President, a Vice President and a Secretary-Treasurer. The Board may, however, allocate responsibilities not requiring formal action, as it deems appropriate, on an informal basis.

**Sec. 12.03. Official Seal.**

The Board shall use a seal of office containing the following words: "STATE OF TENNESSEE BOARD OF LAW EXAMINERS."

**Sec. 12.04. Formal Actions; Quorum.**

- (a) Denial of an application to take the examination, or denial of a license, or the adoption of Board policies and rules shall be taken only on formal action concurred in by at least three members of the Board, expressed in an order.
- (b) Three (3) members of the Board shall constitute a quorum.
- (c) Preliminary approval to take the examination may be given and any other informal action may be taken by any member of the Board.

[Amended by order filed March 14, 2002.]

**Sec. 12.05. Rules and Statements of Policy.**

- (a) The Board shall have the power to adopt such rules and such statements of policy as it may deem necessary or expedient, not inconsistent with the rules of this Court.
- (b) All such rules and statements of policy shall be kept in an official ~~minute~~ rule and policy book maintained by the ~~Administrator~~ Executive Director. Copies of such rules and statements of policy shall be filed with the Court on their adoption. The ~~minute~~ rules and ~~policy book~~ policies shall be open to public inspection and the Board shall take reasonably appropriate steps to assure that applicants are given the opportunity to become familiar with the rules and policies of the Board, as well as with this Rule.

*Reason for change: The change is to distinguish the Rules and Policies of the Board from the minutes that are considered confidential pursuant to Section 12.11.*

**Sec. 12.06. Docket of Proceedings.**

The ~~Administrator~~ Executive Director shall maintain a docket of all proceedings before the Board in which formal action of the Board is taken, or a hearing is held with respect to any application for admission.

**Sec. 12.07. Appointment and Duties of ~~Administrator~~ Executive Director**

The Court shall appoint an ~~Administrator~~ Executive Director of the Board, who shall serve at the pleasure of the Court. Following his or her appointment by the Court, the ~~Administrator~~ Executive Director shall report to the Board, which shall conduct regular performance

evaluations of the ~~Administrator~~ Executive Director and report such evaluations to the Court. The ~~Administrator~~ Executive Director shall be responsible for all administrative duties in the enforcement of this Rule, including, but not limited to, investigation of the character of applicants, investigation of schools, preliminary review of applications, making arrangements for the giving of examinations, keeping books, records and files, and such other responsibilities as may be delegated or directed by the Board.

**Sec. 12.08. Secretarial Assistance.**

The ~~Administrator~~ Executive Director may employ such full or part-time secretarial and other office assistance as he or she may deem appropriate.

**Sec. 12.09. Assistants to the Board.**

The Court may appoint attorneys licensed to practice law in this State and in good standing to assist in the preparation and grading of examination questions, and to perform such other duties in the enforcement of this Rule as the Board may from time to time direct. The assistants shall serve staggered terms of five (5) years, and may be reappointed to serve a second five-year term, provided that shorter terms may be designated initially by the Court where necessary to observe the above rotation practices.

**Sec. 12.10. Salaries.**

Subject to budgetary limitations, the Board shall fix the salary of the ~~Administrator~~ Executive Director, of attorney assistants and employees of the Board.

*Reason for changes: The change to Executive Director reflects the change in title adopted by the Board.*

**Sec. 12.11. Confidentiality of Board Records and Files.**

Applications for admission, examination papers and grades, and all investigative records of the Board, including but not limited to, correspondence and/or electronic transmissions to and from the Board, its members and staff, minutes of Board meetings and its deliberations and all documents, communications and proceedings prepared in connection with evaluations or investigations of law schools under Rule 7, §§ 2.03, 2.07, 2.08, 2.09, 2.10, 2.11, 2.12, and 2.15, whether in paper or electronic form, shall be treated as confidential and shall not be open to inspection by members of the public without written application to and authorization by an appropriate order of this Court. Statistical information not identified with any particular applicant and information relating to whether and when an applicant has been admitted may be released to any person. The Board is authorized to release information which would otherwise be confidential to the licensing, disciplinary or law enforcement agencies of any jurisdiction, the Tennessee Lawyers Assistance Program, the Board of Professional Responsibility, and to the National Conference of Bar Examiners. Notwithstanding the provisions above, completion of an Application to the Bar of Tennessee constitutes Applicant's permission allowing the Board to release Applicant's name, address and email address to Bar and professional legal associations in Tennessee, as

approved by the Board, and, for applications for admission by examination, Applicant's name and exam result to the law school from which Applicant graduated.

[Amended by order filed December 15, 2000, effective January 13, 2001, and by order filed August 31, 2004.]

*Reason for changes: The Board adopted a policy regarding release of names and addresses to legal associations at the March Board meeting. This is a long-standing policy that the Board would like to have incorporated into the rule as an exception to the Confidentiality provision.*

**Sec. 12.12. No Power to Waive or Modify Rule of Court.**

Except as expressly provided in this Rule, the Board has no power to waive or modify any provision of this Rule.

**Sec. 12.13. Subpoena Power.**

The Board and each member thereof are vested with the power to issue subpoenas for witnesses, to compel their attendance, and to compel the production of books, records and documents, to administer oaths to witnesses and to compel witnesses to give testimony under oath, and to have and exercise all other power and authority conferred by the laws of this State and the rules of this Court upon Commissioners or upon Special Masters of this Court. Said subpoenas shall in each instance be attested by one of the Clerks of this Court. Subpoenas shall be issued and enforced in accordance with the provisions of Title 24, Tenn. Code Ann., as in the case of Commissioners authorized to take depositions.

**Sec. 12.14. Counsel for Board.**

(a) The Board is authorized to request any of the attorney assistants to the Board to act as counsel, or to request the State or any local bar association to furnish counsel, to assist the Board in investigations, preparation for hearings, or the conduct of hearings.

(b) The Attorney General shall represent the Board in any proceedings in court, including the review of Board actions in this Court.

**Sec. 12.15. Immunity**

(a) The Board of Law Examiners, and its members, employees, and agents are Members of the Board, district committee members, the Executive Director, Assistants and staff shall be immune from all civil liability for damages for conduct and communications occurring in the performance of and within the scope of their official duties relating to the examination, character, and fitness qualification, and licensing of persons seeking to be admitted to the practice of law from civil suit in the course of their official duties.

(b) Records, statements of opinion, and other information regarding an applicant for admission to the bar communicated by any entity, including any person, firm or institution, without malice, to the Board of Law Examiners, or to its members, employees or agents, are privileged, and civil suits for damages predicated thereon may not be instituted.

(c) The immunity granted in this Section shall not be construed to limit any other form of immunity available to any covered person.

[Adopted by order filed April 15, 1999, effective May 1, 1999.]

*Reason for changes: The changes are an update to the Rule based on changes recommended by the Attorney General's Office.*

## **ARTICLE XIII. FORMAL PROCEEDINGS BEFORE THE BOARD**

### **Sec. 13.01. Show Cause Orders.**

If the Board finds, from the information furnished it or from investigations made under its authority, that grounds for doubt exist as to whether an applicant meets the criteria and standards provided in this Rule, the Board shall issue an order requiring the applicant to show cause why the applicant should not be denied admission or the opportunity to take the examination as the Board may determine. Any such show cause order shall state the grounds thereof, and shall afford the applicant an opportunity to reply thereto within a period designated therein. Any such reply shall be in writing, under oath, and may include such additional affidavits or other documents as the applicant may choose to furnish. If the Board determines that any such reply is not sufficient, the Board shall notify the applicant and afford him or her the opportunity to be heard in accordance with the procedures provided in this Rule. The Board or the ~~Administrator~~ Executive Director, however, may contact the applicant in order to secure an informal resolution of the matter before resorting to the formal procedures herein provided, but no such informal disposition shall be made without the consent of the applicant.

### **Sec. 13.02. Petitions to Board.**

(a) Any person who is aggrieved by any action of the Board involving or arising from the enforcement of this Rule (other than failure to pass the bar examination) may petition the Board for such relief as is within the jurisdiction of the Board to grant.

(b) Any such petition must:

- (i) Be in writing, under oath;
- (ii) Be filed with the Administrator within 30 days after notice of such action by the board; and
- (iii) Must state with reasonable particularity the relief which is sought and the grounds therefor.

(c) Any such petition may:

- (i) Be accompanied by such affidavits and other documentary evidence as the petitioner may deem appropriate;
- (ii) May be supported by a ~~brief~~ Memorandum of Law setting forth pertinent authorities and arguments; and
- (iii) May ask the Board to set the matter for hearing.

(d) The Board may order a hearing of any such petition on its own motion.

**Sec. 13.03. Hearings Before the Board.**

- (a) The Administrator shall serve notice on the petitioner or the respondent to a show cause order and any other interested parties fixing the time and place of the hearing and indicating the matters to be heard.
- (b) The petitioner or respondent and any other person made a party to the proceeding shall have the right to be represented by counsel and to present evidence and argument with respect to the matters in issue.
- (c) The burden of proof shall be upon the petitioner, or the respondent in the case of a show cause order.
- (d) Any person having a direct interest in the matters in issue in any proceeding may, upon written motion, be allowed to intervene and become a party of record.
- (e) The Board shall not be bound by the rules of evidence applicable in a court, but it may admit and give probative effect to any evidence which in the judgment of the Board possesses such probative value as would entitle it to be accepted by reasonably prudent persons in the conduct of their affairs. The Board, however, shall give effect to the rules of privilege recognized by law. The Board may exclude incompetent, irrelevant, immaterial and unduly repetitious evidence.
- (f) All evidence, including records and documents in the possession of the Board of which it desires to avail itself, shall be offered and made a part of the record, and no factual information shall be considered by the Board which is not made part of the record.
- (g) Documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference.
- (h) The Board may take notice of judicially cognizable facts, and, in addition, may take notice of general or technical facts within its specialized knowledge.
- (i) The Board may cause subpoenas to be issued for such witnesses as any party may in good faith and for good cause shown request in writing.
- (j) The Administrator shall arrange for the presence of a court reporter to transcribe any oral hearing. The per diem charge of such reporter shall be paid by the party requesting the hearing, or, in the case of a show cause order, by the Board. In its discretion, the Board may waive the presence of a reporter and use an electronic or similar recording device. At the direction of the Board, or at the request of any party, a transcription of the hearing shall be made, and shall be incorporated in the record, if made. The party requesting the transcription shall bear the cost thereof. If the Board elects to transcribe the proceedings, any party shall be provided copies thereof upon payment to the Board of a reasonable compensatory charge.
- (k) At the direction of the Board and by agreement of the parties, all or part of a hearing may be conducted by telephone, ~~television~~, or other electronic means, if each party has an opportunity to participate in, to hear, and, if technically feasible, to see the entire proceeding while it is taking place.

(l) Any member of the Board may hold hearings when authorized by the Board to do so, but any decision shall be made by a majority of the Board. Any member participating in the decision without being present shall read the transcript of the proceedings and the entire record before the Board.

**Sec. 13.04. Default.**

(a) If a party fails to respond to a show cause order, the Board may hold that party in default, serve a notice of default on that party, and after the period stated in that notice, enter an order taking such action as the Board deems appropriate.

(b) If a party fails to appear at a hearing, the Board may hold that party in default, serve a notice of default on the party, and after the period stated in that notice, dismiss the petition, or, in the case of a hearing set by the Board on its own motion, enter an order taking such action as the Board deems appropriate.

(c) When a party fails to respond to a show cause order, or fails to appear at a hearing, the Board may, at its election, proceed with the hearing in the absence of that party.

(d) A party who has been held in default may file a petition for setting aside that default within 15 days after the entry of an order based on that default, which petition shall state with particularity the grounds thereof.

**Sec. 13.05. Costs.**

The Board may require payment of or security for the costs and expenses of any hearing before the Board, in such a manner as it deems reasonably compensatory.

**Sec. 13.06. Decisions of Board.**

The Board's decision on any hearing before it shall be made in writing and a copy thereof shall be mailed or delivered to all parties of record.

**Sec. 13.07. Informal Disposition.**

Unless precluded by law or by this Rule, informal disposition may be had of any matter before the Board by stipulation, agreed settlement, or consent order.

**Sec. 13.08. Motions and Other Matters Preliminary to Hearing.**

(a) Any party who desires to raise any matter preliminary to the hearing or to obtain any order from the Board prior to the hearing shall do so by motion, which shall be made in writing, shall state with reasonable ~~particularity~~ particularity the grounds therefor, and shall set forth the relief or order sought.

(b) Any member of the Board may dispose of any motion, subject to the right of review by the entire Board.

## **ARTICLE XIV. REVIEW OF BOARD DECISIONS**

### **Sec. 14.01. Petition for Review.**

Any person aggrieved by any action of the Board may petition this Court from a review thereof as under the common law writ of certiorari, unless otherwise expressly precluded from doing so under this Rule. A petition filed under this section shall be made under oath or on affirmation and shall state that it is the first application for the writ. *See* Tenn. Code Ann. §§ 27-8-104(a) and 27-8-106. On the grant of the writ, the Administrator shall certify and forward to the Court a complete record of the proceedings before the Board in that matter. Any such petition must be filed within 60 days after ~~the action complained of.~~ entry of the order of the Board. The Board shall have 30 days after filing of any such petition within which to file a response.

[Amended by order entered June 22, 1988; by order filed April 15, 1999, effective May 1, 1999; and amended by order entered May 2, 2011.]

### **Sec. 14.02. Costs.**

The Court may make such orders as it may consider appropriate with respect to the payment of or security for costs and other expenses of hearings before the Court.

### **Sec. 14.03. Exhaustion of Board Remedies.**

The Court will entertain no application or petition from any person who may be affected directly or indirectly by this Rule, unless that person has first exhausted his remedy before the Board.

### **Sec. 14.04. No Review of Failure to Pass Bar Examination.**

The only remedy afforded for a grievance for failure to pass the bar examination shall be the right to re-examination as herein provided.

## **ARTICLE XV. SURRENDER OF LAW LICENSE**

An attorney licensed to practice in Tennessee may petition the Supreme Court to accept the surrender of his or her license to practice law.

The petition shall be filed in the office of the Clerk of the Appellate Courts in Nashville. The petitioner shall contemporaneously serve copies of the petition upon the Chief Disciplinary Counsel of the Board of Professional Responsibility, the Executive ~~Secretary~~ Director of the Board of Law Examiners, and the Executive Director of the Commission on Continuing Legal Education and Specialization.

The petition shall state under oath:

- (a) the reason(s) for the requested surrender;
- (b) whether disbarment, suspension, disciplinary, or other administrative action of any nature is in effect or pending as to the petitioner;
- (c) whether there is a potential grievance, complaint, disciplinary or administrative action of any nature in any jurisdiction which may likely be filed against the petitioner;

(d) whether the attorney is currently on probation, under criminal charge(s), or under investigation for criminal charge(s), of any nature in any jurisdiction.

The Court may decline to consider any petition during the pendency of any of the matters described herein above.

The attorney shall attach the law license to the petition or shall attach an affidavit fully explaining why the license is not attached.

Upon consideration of the petition, the Court may grant the petition or deny it. If the Court grants the petition, the order accepting the surrender shall state the date the surrender shall take effect. The Clerk shall mail a copy of the order to the surrendering attorney, the Board of Professional Responsibility, the Board of Law Examiners, and the Commission on Continuing Legal Education and Specialization.

As of the effective date of the order accepting surrender, the attorney shall have no license to practice law in this state. After the effective date of the order, this license shall not be reinstated, and the attorney may not be licensed to practice law in Tennessee until he or she applies for a law license in Tennessee and meets the requirements of Rule 7, Rules of the Supreme Court.

Article added by order entered April 11, 1996.]

#### **ARTICLE XVI. REINSTATEMENT OF LAW LICENSE**

In accordance with Tenn. Sup. Ct. Rule 9, §§ 19 and 20, a petitioner requesting reinstatement of a license to practice law, after having been suspended, disbarred or assumed inactive status, must first petition for reinstatement and may not take the Tennessee bar examination in advance of a determination of such petition absent order from the Supreme Court. Upon entry of the order of the Supreme Court directing the petitioner to take the bar exam, the petitioner must apply for examination as required of any other applicant with the same fees and deadlines and forms, including the NCBE application and background check, and attach a copy of the order directing petitioner to take the examination. Because of the change in the content of the examination and the scoring of the examination, a petitioner who is ordered to take the Tennessee bar examination must take the full examination.

*Reason for changes: This is a new provision. The Board regularly received inquiries and petitions to allow someone who wishes to have his/her license reinstated to take the bar examination. Also the provision makes clear that a petitioner requesting reinstatement must apply in the same manner with the same fees and investigations as anyone wishing to take the examination*

## **Rule 6. Admission of Attorneys.**

An applicant who has been approved for licensing under Rule 7 may seek admission to the bar of this Court by either:

- 1) Appearing in open court and representing, through a reputable member of the bar, that he or she is a person of good moral character and that he or she has been ~~duly~~ issued a Certificate of Eligibility to be licensed to practice law under Rule 7 and the statutes of this state; or
- 2) ~~F~~Filing with the Clerk of the Supreme Court an application for admission by affidavit. Such application shall contain:
  - a) A personal statement by the applicant that he or she possesses all qualifications and meets all requirements for admission as set out in the preceding paragraph; ~~and~~
  - b) A statement by two sponsors (who must be members of the Bar of this Court and must personally know the applicant) endorsing the correctness of the applicant's statement, stating that the applicant possesses all the qualifications required for admission and affirming that the applicant is of good moral and professional character. Upon timely application and for good cause shown, the Board of Law Examiners, in its discretion, may waive this requirement; and,
  - c) A copy of the Certificate of Eligibility issued by the Board of Law Examiners pursuant to Rule 7, Section 9.01.
- 3) The documents submitted by the applicant shall demonstrate that he or she possesses the necessary qualifications for admission. Upon the applicant's taking the oath or affirmation and paying the fee therefor, the Clerk shall issue a certificate of admission. The fee for admission to the Bar of this Court shall be fixed by the Court. Applications may be filed in the offices of the Clerk at Nashville, Knoxville, or Jackson.
- 4) Each applicant for admission shall take the following oath:
  - i) I, \_\_\_\_\_, do solemnly swear or affirm that I will support the Constitution of the United States and the Constitution of the State of Tennessee, and that I will truly and honestly demean myself in the practice of my profession to the best of my skill and abilities, so help me God.
- 5) The foregoing oath of admission may be administered by one of the following judicial officials in Tennessee: (A) a Justice of the Supreme Court; (B) a Judge of the Court of Appeals; (C) a Judge of the Court of Criminal Appeals; (D) a Circuit Court Judge; (E) a Chancellor; (F) a Criminal Court Judge; (G) a General Sessions Court Judge; (H) a Judge of any other inferior court established by the General Assembly pursuant to Article VI, Section 1 of the Tennessee Constitution; (I) the Clerk of the Appellate Courts; (J) a Chief Deputy Clerk of the Appellate Courts; or (K) the Clerk (not including deputy clerks) of any of the courts of such trial judges listed above. The oath of admission also may be administered by a justice or judge of the court of last resort in any other state.

**RULE 5.5: UNAUTHORIZED PRACTICE OF LAW;  
MULTIJURISDICTIONAL PRACTICE OF LAW**

(a) A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.

(b) A lawyer who is not admitted to practice in this jurisdiction shall not:

(1) except as authorized by these Rules or other law, establish an office or other systematic and continuous presence in this jurisdiction for the practice of law; or

(2) hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction.

(c) A lawyer admitted in another United States jurisdiction, and not disbarred or suspended from practice in any jurisdiction, may provide legal services on a temporary basis in this jurisdiction that:

(1) are undertaken in association with a lawyer who is admitted to practice in this jurisdiction and who actively participates in the matter;

(2) are in or reasonably related to a pending or potential proceeding before a tribunal in this or another jurisdiction, if the lawyer, or a person the lawyer is assisting, is authorized by law or order to appear in such proceeding or reasonably expects to be so authorized;

(3) are in or reasonably related to a pending or potential arbitration, mediation, or other alternative dispute resolution proceeding in this or another jurisdiction, if the services arise out of or are reasonably related to the lawyer's representation of an existing client in a jurisdiction in which the lawyer is admitted to practice and are not services for which the forum requires pro hac vice admission; or

(4) are not within paragraphs (c)(2) or (c)(3) and arise out of or are reasonably related to the lawyer's representation of an existing client in a jurisdiction in which the lawyer is admitted to practice.

(d) A lawyer admitted in another United States jurisdiction, and not disbarred or suspended from practice in any jurisdiction, may provide legal services in this jurisdiction that:

(1) are provided to the lawyer's employer or its organizational affiliates and are not services for which the forum requires pro hac vice admission; or

(2) are services that the lawyer is authorized to provide by federal law or other law of this jurisdiction.

(3) A lawyer providing legal services pursuant to paragraph (d)(1) is subject to registration pursuant to Tenn. Sup. Ct. R. 7, § 10.01, and may be subject to other requirements, including assessments for client protection funds and mandatory continuing legal education. Failure to register in a timely manner may preclude the lawyer from later seeking admission in this jurisdiction.

(e) A lawyer authorized to provide legal services in this jurisdiction pursuant to paragraph (d)(1) of this Rule may also provide pro bono legal services in this jurisdiction, provided that these services are offered through an established not-for-profit bar association, pro bono program or legal services program or through such organization(s) specifically authorized in this jurisdiction and provided that these are services for which the forum does not require pro hac vice admission.

(f) A lawyer providing legal services in Tennessee pursuant to paragraph (c) or (d) shall advise the lawyer's client that the lawyer is not admitted to practice in Tennessee and shall obtain the client's informed consent to such representation.

(g) A lawyer providing legal services in Tennessee pursuant to paragraph (c) or (d) shall be deemed to have submitted himself or herself to personal jurisdiction in Tennessee for claims arising out of the lawyer's actions in providing such services in this state.

(h) A lawyer or law firm shall not employ or continue the employment of a disbarred or suspended lawyer as an attorney, legal consultant, law clerk, paralegal or in any other position of a quasi-legal nature.

**Comment**

[1] A lawyer may practice law only in a jurisdiction in which the lawyer is authorized to practice. A lawyer may be admitted to practice law in a jurisdiction on a regular basis or may be authorized by court rule or order or by law to practice for a limited purpose or on a restricted basis. Paragraph (a) applies to unauthorized practice of law by a lawyer, whether through the lawyer's direct action or by the lawyer assisting another person.

[2] The definition of the practice of law is established by law and varies from one jurisdiction to another. Whatever the definition, limiting the practice of law to members of the bar protects the public against rendition of legal services by unqualified persons. This Rule does not prohibit a lawyer from employing the services of paraprofessionals and delegating functions to them, so long as the lawyer supervises the delegated work and retains responsibility for their work. See RPC 5.3.

[3] A lawyer may provide professional advice and instruction to nonlawyers whose employment requires knowledge of the law, for example, claims adjusters, employees of financial or commercial institutions, social workers, accountants and persons employed in government agencies. Lawyers also may assist independent nonlawyers, such as paraprofessionals, who are authorized by the law of a jurisdiction to provide particular law-related services. In addition, a lawyer may counsel nonlawyers who wish to proceed pro se.

[4] Other than as authorized by law or this Rule, a lawyer who is not admitted to practice generally in this jurisdiction violates paragraph (b) if the lawyer establishes an office or other systematic and continuous presence in this jurisdiction for the practice of law. Presence may be systematic and continuous even if the lawyer is not physically present here. Such a lawyer must not hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction. See also RPCs 7.1(a) and 7.5(b).

[5] There are occasions in which a lawyer admitted to practice in another United States jurisdiction, and not disbarred or suspended from practice in any jurisdiction, may provide legal services on a temporary basis in this jurisdiction under circumstances that do not create an unreasonable risk to the interests of their clients, the public or the courts. Paragraph (c) identifies four such circumstances. The fact that conduct is not so identified does not imply that the conduct is or is not authorized. With the exception of paragraphs (d)(1) and (d)(2), this Rule does not authorize a lawyer to establish an office or other systematic and continuous presence in this jurisdiction without being admitted to practice generally here.

[6] There is no single test to determine whether a lawyer's services are provided on a "temporary basis" in this jurisdiction, and may therefore be permissible under paragraph (c). Services may be "temporary" even though the lawyer provides services in this jurisdiction on a recurring basis, or for an extended period of time, as when the lawyer is representing a client in a single lengthy negotiation or litigation.

[7] Paragraphs (c) and (d) apply to lawyers who are admitted to practice law in any United States jurisdiction, which includes the District of Columbia and any state, territory or commonwealth of the United States. The word "admitted" in paragraph (c) contemplates that the lawyer is authorized to practice in the jurisdiction in which the lawyer is admitted and excludes a lawyer who while technically admitted is not authorized to practice, because, for example, the lawyer is on inactive status.

[8] Paragraph (c)(1) recognizes that the interests of clients and the public are protected if a lawyer admitted only in another jurisdiction associates with a lawyer licensed to practice in this jurisdiction. For this paragraph to apply, however, the lawyer admitted to practice in this jurisdiction must actively participate in and share responsibility for the representation of the client.

[9] Lawyers not admitted to practice generally in a jurisdiction may be authorized by law or order of a tribunal or an administrative agency to appear before the tribunal or agency. This authority may be granted pursuant to formal rules governing admission pro hac vice or pursuant to informal practice of the tribunal or agency. Under paragraph (c)(2), a lawyer does not violate this Rule when the lawyer appears before a tribunal or agency pursuant to such authority. To the extent that a court rule or other law of this jurisdiction requires a lawyer who is not admitted to practice in this jurisdiction to obtain admission pro hac vice before appearing before a tribunal or administrative agency, this Rule requires the lawyer to obtain that authority.

[10] Paragraph (c)(2) also provides that a lawyer rendering services in this jurisdiction on a temporary basis does not violate this Rule when the lawyer engages in conduct in anticipation of a proceeding or hearing in a jurisdiction in which the lawyer is authorized to practice law or in which the lawyer reasonably expects to be admitted pro hac vice. Examples of such conduct include meetings with the client, interviews of potential witnesses, and the review of documents. Similarly, a lawyer admitted only in another jurisdiction may engage in conduct temporarily in this jurisdiction in connection with pending litigation in another jurisdiction in which the lawyer is or reasonably expects to be authorized to appear, including taking

depositions in this jurisdiction.

[11] When a lawyer has been or reasonably expects to be admitted to appear before a court or administrative agency, paragraph (c)(2) also permits conduct by lawyers who are associated with that lawyer in the matter, but who do not expect to appear before the court or administrative agency. For example, subordinate lawyers may conduct research, review documents, and attend meetings with witnesses in support of the lawyer responsible for the litigation.

[12] Paragraph (c)(3) permits a lawyer admitted to practice law in another jurisdiction to perform services on a temporary basis in this jurisdiction if those services are in or reasonably related to a pending or potential arbitration, mediation, or other alternative dispute resolution proceeding in this or another jurisdiction, if the services arise out of or are reasonably related to the lawyer's representation of an existing client in a jurisdiction in which the lawyer is admitted to practice. The lawyer, however, must obtain admission pro hac vice in the case of a court-annexed arbitration or mediation or otherwise if court rules or law so require.

[13] Paragraph (c)(4) permits a lawyer admitted in another jurisdiction to provide certain legal services on a temporary basis in this jurisdiction that arise out of or are reasonably related to the lawyer's representation of an existing client in a jurisdiction in which the lawyer is admitted but are not within paragraphs (c)(2) or (c)(3). These services include both legal services and services that nonlawyers may perform but that are considered the practice of law when performed by lawyers.

[14] Paragraphs (c)(3) and (c)(4) require that the services arise out of or be reasonably related to the lawyer's representation of an existing client in a jurisdiction in which the lawyer is admitted. A variety of factors evidence such a relationship. The lawyer's client may be resident in or have substantial contacts with the jurisdiction in which the lawyer is admitted. The matter, although involving other jurisdictions, may have a significant connection with that jurisdiction. The necessary relationship might arise when the client's activities or the legal issues involve multiple jurisdictions, such as when the officers of a multinational corporation survey potential business sites and seek the services of their lawyer in assessing the relative merits of each. Lawyers desiring to provide pro bono legal services on a temporary basis in a jurisdiction that has been affected by a major disaster, but in which they are not otherwise authorized to practice law, as well as lawyers from the affected jurisdiction who seek to practice law temporarily in another jurisdiction, but in which they are not otherwise authorized to practice law, should consult Tenn. Sup. Ct. R. 47.

[15] Paragraph (d) identifies two circumstances in which a lawyer who is admitted to practice in another United States jurisdiction, and is not disbarred or suspended from practice in any jurisdiction, may establish an office or other systematic and continuous presence in this jurisdiction for the practice of law as well as provide legal services on a temporary basis. Except as provided in paragraphs (d)(1) and (d)(2), a lawyer who is admitted to practice law in another jurisdiction and who establishes an office or other systematic or continuous presence in this jurisdiction must become admitted to practice law generally in this jurisdiction.

[16] Paragraph (d)(1) applies to a lawyer who is employed by a client to provide legal services to the client or its organizational affiliates, i.e., entities that control, are controlled by, or are under common control with the employer. This paragraph does not authorize the provision of personal legal services to the employer's officers or employees. The paragraph applies to in-house corporate lawyers, government lawyers and others who are employed to render legal services to the employer. The lawyer's ability to represent the employer outside the jurisdiction in which the lawyer is licensed generally serves the interests of the employer and does not create an unreasonable risk to the client and others because the employer is well situated to assess the lawyer's qualifications and the quality of the lawyer's work.

~~[17] If an employed lawyer establishes an office or other systematic presence in this jurisdiction for the purpose of rendering legal services to the employer, the lawyer may be subject to registration or other requirements, including assessments for client protection funds and mandatory continuing legal education. See Tenn. Sup. Ct. R. 7, § 10.01 (Registration of In-House Counsel).~~

[18] Paragraph (d)(2) recognizes that a lawyer may provide legal services in a jurisdiction in which the lawyer is not licensed when authorized to do so by federal or other law, which includes statute, court rule, executive regulation or judicial precedent.

[19] A lawyer who practices law in this jurisdiction pursuant to paragraphs (c) or (d) or otherwise is subject to the disciplinary authority of this jurisdiction. See RPC 8.5(a). Additionally, under paragraph (g), a lawyer providing legal services in Tennessee pursuant to paragraphs (c) or (d) shall be deemed to have submitted himself or herself to personal jurisdiction in Tennessee for claims arising out of the lawyer's actions in providing such services in this state.

[20] Paragraph (f) requires a lawyer who practices law in this jurisdiction pursuant to paragraphs (c) or (d) to inform the client that the lawyer is not licensed to practice law in this jurisdiction. See also RPC 1.4(b).

[21] Paragraphs (c) and (d) do not authorize communications advertising legal services to prospective clients in this jurisdiction by lawyers who are admitted to practice in other jurisdictions. Whether and how lawyers may communicate the availability of their services to prospective clients in this jurisdiction is governed by RPCs 7.1 to 7.5.

[22] Paragraph (h) provides that a lawyer or law firm may not employ or continue the employment of a disbarred or suspended lawyer as an attorney, legal consultant, law clerk, paralegal or in any other position of a quasi-legal nature. That paragraph is consistent with existing Tennessee law. See Formal Ethics Opinion 83-F-50; Tenn. Sup. Ct. R. 9, § 18.7 (providing, "[u]pon the effective date of the order [imposing disbarment, suspension or transfer to disability inactive status], the respondent shall not maintain a presence or occupy an office where the practice of law is conducted").

#### **DEFINITIONAL CROSS-REFERENCES**

"Informed consent" See RPC 1.0(e)

"Reasonably" See RPC 1.0(h)

"Tribunal" See RPC 1.0(m)

Exhibit B Service List

<b>Name</b>	<b>Title</b>	<b>Firm</b>	<b>Address One</b>	<b>Address Two</b>	<b>City</b>	<b>State</b>	<b>Zip</b>
Deborah Tate	Administrative Director	Administrative Office of the Courts	511 Union St	Suite 600	Nashville	TN	37219
Hon. Alberto Gonzales	Dean	Belmont University College of Law	1900 Belmont Blvd		Nashville	TN	37212
Sandy L. Garrett	Chief Disciplinary Counsel	Board of Professional Responsibility	10 Cadillac Drive	Suite 220	Brentwood	TN	37027
Michael U. King	Chairman of the Board	Board of Professional Responsibility	12880 E Paris St	PO Box 667	Huntingdon	TN	38344-0667
Peter Letsou	Dean, Cecil C. Humphreys School of Law	University of Memphis	1 North Front Street		Memphis	TN	38103
Lynda Hood	Executive Director	Chattanooga Bar Association	801 Broad St	Suite 420 Pioneer Bldg	Chattanooga	TN	37402
Paul Hatcher	President, Chattanooga Bar Association		1418 McCallie Ave		Chattanooga	TN	37404
Marsha Wilson	Executive Director	Knoxville Bar Association	P O Box 2027	505 Main St Suite 50	Knoxville	TN	37901
Wade Davies	President, Knoxville Bar Association	Ritchie Dillard Davies et al	PO Box 1126		Knoxville	TN	37901
Parham Williams	Dean, Lincoln Memorial University	Duncan School of Law	601 W. Summit Hill Drive		Knoxville	TN	37902
Tommy Parker	President, Memphis Bar Association	Baker Donelson	165 Madison Ave.	Ste. 2000	Memphis	TN	38103
Anne Fritz	Executive Director	Memphis Bar Association	145 Court Ave	Ste 1	Memphis	TN	38103-2292
Monica Mackie	Executive Director	Nashville Bar Association	150 4th Avenue North #1050		Nashville	TN	37219
Edward Lanquist	President, Nashville Bar Association	Patterson PC	1600 Division St.	Ste. 500	Nashville	TN	37203
Justice William Koch	Dean	Nashville School of Law	4013 Armory Oaks Drive		Nashville	TN	37204
Allan Ramsaur	Executive Director	Tennessee Bar Association	221 4th Ave N	Suite 400	Nashville	TN	37219
Jonathan Steen	President, Tennessee Bar Association	Redding Steen & Staton, PC	464 North Pkwy	Suite A	Jackson	TN	38305

<b>Name</b>	<b>Title</b>	<b>Firm</b>	<b>Address One</b>	<b>Address Two</b>	<b>City</b>	<b>State</b>	<b>Zip</b>
Julian Bibb	President, TN Board of Law Examiners	Stites and Harbison	401 Commerce Street, #800		Nashville	TN	37219
Bill Harbison	Vice President, TN Board of Law Examiners	Sherrard & Roe, PLC	150 3 <sup>rd</sup> Avenue S,	Ste. 1100	Nashville	TN	37201
Jeffrey M. Ward	Secretary-Treasurer, TN Board of Law Examiners	Milligan & Coleman, PLLP	230 W. Depot St.		Greeneville	TN	37743
Hon. William M. Barker	TN Board of Law Examiners	Chambliss, Bahner & Stophel, P.C.	605 Chestnut Street	Liberty Tower, Suite 1700	Chattanooga	TN	37450
Barbara M. Zoccola	TN Board of Law Examiners	United States Attorney's Office	167 N. Main St., 8 <sup>th</sup> Floor		Memphis	TN	38103
Judy McKissack	Executive Director	Commission on Continuing Legal Education	221 Fourth Avenue North # 300		Nashville	TN	37219
Leslie A. Muse	Chair, Commission on Continuing Legal Education		2701 Kingston Pike	PO Box 2649	Knoxville	TN	37901-2649
Doug Blaze	Dean	UT College of Law	1505 W. Cumberland Ave, Rm 278		Knoxville	TN	37996
Chris Guthrie	Dean	Vanderbilt University School of Law	131 21st Ave. South, Room 108		Nashville	TN	37203