

IN THE SUPREME COURT OF TENNESSEE  
AT NASHVILLE

**IN RE: AMENDMENT TO RULE 7, SECTION 10.05,  
RULES OF THE TENNESSEE SUPREME COURT**

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**ORDER**

**Filed: December 10, 2008**

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The Board of Law Examiners, the Board of Professional Responsibility, and the Tennessee Lawyers Assistance Program have jointly requested that the Court amend Rule 7 by adding a new provision governing “Conditional Admission” to the practice of law. Attached as Appendix A is the proposed amendment submitted to the Court by those agencies, tentatively designated as a new Section 10.05 to Rule 7.

The Court hereby publishes the proposed amendment for public comment and solicits written comments from judges, lawyers, bar associations, members of the public, and any other interested parties. The deadline for submitting written comments is Monday, March 9, 2009. Written comments should be addressed to:

Michael W. Catalano, Clerk  
100 Supreme Court Building  
401 Seventh Avenue North  
Nashville, TN 37219-1407

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

IT IS SO ORDERED.

FOR THE COURT:

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JANICE M. HOLDER, CHIEF JUSTICE

## *APPENDIX A*

### *PROPOSED NEW RULE 7, SECTION 10.05, RULES OF THE TENNESSEE SUPREME COURT*

**Sec. 10.05. Conditional Admission.** – An applicant who currently satisfies all essential eligibility requirements for admission to practice law, including fitness requirements, and who possesses the requisite good moral character required for admission, may be conditionally admitted to the practice of law if the applicant demonstrates to the satisfaction of the Board of Law Examiners recent rehabilitation from chemical dependency or successful treatment for mental or other illness, or from any other condition the Board of Law Examiners deems appropriate, that has resulted in conduct or behavior that would otherwise have rendered the applicant currently unfit to practice law, and the conduct or behavior, if it should recur, would impair the applicant's current ability to practice law or pose a threat to the public. The Board of Law Examiners shall recommend relevant conditions that the applicant must comply with 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 of Law Examiners shall have no further authority over the conditionally admitted lawyer once such lawyer obtains a license to practice law.

(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. 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.

(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.