

# IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 19-9023

## ORDER AMENDING RULES GOVERNING ADMISSION TO THE BAR OF TEXAS

**ORDERED** that:

1. On October 8, 2018, the Court issued an order (Misc. Docket No. 18-9133) adopting certain recommendations of the Task Force on the Texas Bar Examination (“Task Force”) and requested public comments. The Court reviewed all comments received.
2. The Court amends the Rules Governing Admission to the Bar of Texas in part to implement those Task Force recommendations.
3. The amendments take effect December 1, 2019.
4. The amendments may be changed in response to public comments. Written comments should be sent to [rulescomments@txcourts.gov](mailto:rulescomments@txcourts.gov). The Court requests that comments be sent by June 1, 2019.
5. The Board is directed to:
  - a. begin accepting, on December 1, 2019, applications for admission to the State Bar of Texas based on a transferred Uniform Bar Examination score; and
  - b. develop the Texas Law Component, which will be available for administration no later than June 1, 2020.
6. The Clerk is directed to:
  - a. file a copy of this order with the Secretary of State;
  - b. cause a copy of this order to be mailed to each registered member of the State Bar of Texas by publication in the *Texas Bar Journal*;
  - c. send a copy of this order to each elected member of the Legislature; and
  - d. submit a copy of the order for publication in the *Texas Register*.

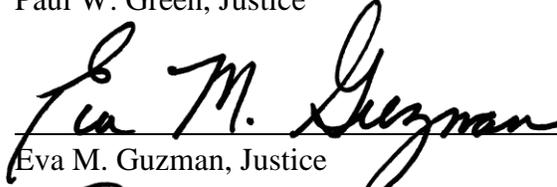
Dated: March 26, 2019.



Nathan L. Hecht, Chief Justice



Paul W. Green, Justice



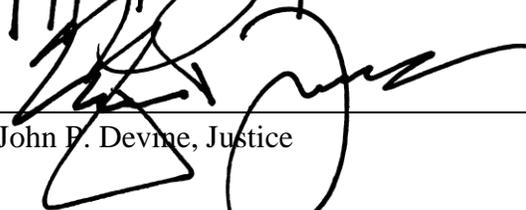
Eva M. Guzman, Justice



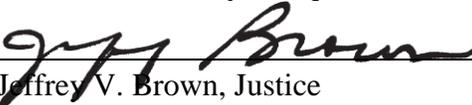
Debra H. Lehmann, Justice



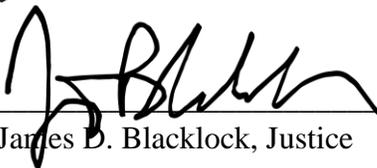
Jeffrey S. Hoyd, Justice



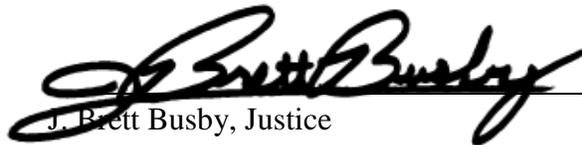
John F. Devine, Justice



Jeffrey V. Brown, Justice



James D. Blacklock, Justice



J. Brett Busby, Justice

## Rule 1 Definitions and General Provisions

- (a) Frequently used terms are defined as follows:
- (1) “Accredited” means that a law school is recognized as being qualified by the competent accrediting agency of a State state or foreign jurisdiction, by a political subdivision of a State state or foreign jurisdiction, or by another authorized body of a State state or foreign jurisdiction.
  - (2) “Applicant” means a person, including a person approved for a Probationary License, who files with the Board any Application ~~or Re-application~~ to take the Texas Bar Examination, to be admitted to the Bar with or without the Texas Bar Examination examination, or for certification Certification as a Foreign Legal Consultant, ~~including a person approved for a probationary license~~.
  - (3) “Application” means an application Application or re-application Re-application submitted to the Board to take the Texas Bar Examination, to be admitted to the Bar with or without the Texas Bar Examination examination to the Texas Bar, or for certification Certification as a Foreign Legal Consultant.
  - (4) “Approved law school” means a law school approved by the American Bar Association.
  - (5) “Authorized to practice law” means that the Applicant has achieved the ability to engage in activities that would be recognized in the United States as the practice of law.
  - ~~(6)~~ (6) “Bar” means the State Bar of Texas.
  - ~~(7)(6)~~ (7)(6) “Board” means the Texas Board of Law Examiners.
  - ~~(8)(7)~~ (8)(7) “Chemical dependency” means substance use disorder as defined by the American Psychiatric Association in the Diagnostic and Statistical Manual DSM-5 and any subsequent revisions thereof.
  - ~~(9)(8)~~ (9)(8) “Controlled substance” has the meaning assigned by Section 462.001, Health and Safety Code.

~~(10)~~<sup>(9)</sup>“Declarant” means a person who files with the Board a Declaration of Intention to Study Law.

~~(11)~~<sup>(10)</sup>“Declaration” means a Declaration of Intention to Study Law.

~~(12)~~<sup>(11)</sup>“Practice of law” includes:

- (A) private practice as a sole practitioner or for a law firm, legal services office, legal clinic, public agency, or similar entity;
- (B) practice as an attorney for an individual or for a corporation, partnership, trust, or other entity with the primary duties of furnishing legal counsel and advice; drafting and interpreting legal documents and pleadings; interpreting and giving advice regarding the law; or preparing, trying, or presenting cases before courts, departments of government, or administrative agencies;
- (C) practice as an attorney for a local, ~~State, government or the state~~ or federal government, with the same primary duties described in the preceding subsection;
- (D) employment as a judge, magistrate, referee, or similar official for a local, ~~State, government or the state~~ or federal government, provided that the employment is open only to licensed attorneys;
- (E) employment as a full-time teacher of law at an approved law school;  
or
- (F) any combination of the preceding categories.

~~(13)~~<sup>(12)</sup>“State” means any state or territory of the United States, as well as the District of Columbia.

~~(14)~~<sup>(13)</sup>“Supreme Court” means the Supreme Court of Texas.

~~(14) “Bar Examination Security Policy” means the written policy statement published by the Board in the Texas Bar Examination General Instructions describing the conduct and activity of Applicants that is either prohibited or allowed during administration of the Texas Bar Examination.~~

(15) “Texas Bar Examination” means the Uniform Bar Examination administered by the Board beginning with the February 2021 administration and the examination administered by the Board before the February 2021 administration.

(16) “Texas Bar Examination Security Policy” means the written policy statement published by the Board describing the conduct and activity of Applicants that is either prohibited or allowed during administration of the Texas Bar Examination.

(17) “Uniform Bar Examination” means the assessment coordinated by the National Conference of Bar Examiners and administered by the Board or by another State that is composed of the Multistate Essay Examination, two Multistate Performance Test tasks, and the Multistate Bar Examination.

- (b) The terms “admitted,” “admitted to the Bar,” ~~“admitted to the Texas Bar,”~~ “licensed,” and “licensed to practice law in Texas” are used interchangeably in these Rules.
- (c) A document is considered filed when:
- (1) the document and any required fee are submitted electronically through the Board’s website; or
  - (2) the document and any required fee are received by the Board in accordance with the Board’s written policies and instructions.
- (d) A document submitted electronically is considered signed if the document includes:
- (1) a name typed in the space where the signature would otherwise appear;
  - (2) an electronic or scanned image of the signature;
  - (3) a digital signature; or
  - (4) any other form of signature allowed by the Board’s written policies and instructions.

- (e) The Board must not disclose to any third party any information obtained with respect to the character or fitness of any Applicant; or Declarant, ~~or probationary licensee~~, except:
- (1) upon written authority of the Applicant; or Declarant, ~~or probationary licensee~~;
  - (2) in response to a valid subpoena from a court of competent jurisdiction; or
  - (3) to the Bar's Office of ~~the~~ Chief Disciplinary Counsel ~~of the State Bar of Texas~~ or to the Texas Unauthorized Practice of Law Committee.
- (f) A document must be filed with the Board by the date stated in these Rules ~~rules~~ even if the date falls on a weekend or holiday.
- (g) Every document required to be filed by these Rules ~~rules~~ must be filed through the electronic filing manager established by the Board. A document is considered timely filed if it is electronically filed by 11:59 p.m. Central Standard Time on the filing deadline.

## Rule 2

### General Eligibility Requirements for Admission to the Texas Bar

- (a) To be eligible for admission or reinstatement as a licensed attorney in Texas, an Applicant must:
- (1) comply with all applicable requirements of these Rules;
  - (2) be at least 18 years of age;
  - (3) be of present good moral character and fitness;
  - (4) have completed the law study required under these Rules, unless specifically exempted under Rule 13;
  - (5) qualify under one of the following categories:
    - ~~(A)(G)~~ be a United States citizen;
    - ~~(B)(H)~~ be a United States national;

- ~~(C)~~(I) be an alien lawfully admitted for permanent residence;
- ~~(D)~~(H) be otherwise authorized to work lawfully in the United States, including in a period of Optional Practical Training; or
- ~~(E)~~(K) be an Applicant who does not reside in the United States when the Application is submitted;
- (6) have satisfactorily completed the Texas Bar Examination, unless specifically exempted from the Texas Bar Examination under Rule 13 (but ~~in no event shall~~ an Applicant for reinstatement must not be so exempted);
- (7) have satisfactorily completed the Multistate Professional Responsibility Examination;
- ~~(8)~~ have satisfactorily completed the Texas Law Component, unless specifically exempted under Rule 5 (but an Applicant for reinstatement must not be so exempted);
- ~~(9)~~(8) be willing to take the oath required of attorneys in Texas;
- ~~(10)~~(9) pay the appropriate licensing fee to the Clerk of Supreme Court of Texas; and
- ~~(11)~~(10) enroll in the State Bar of Texas by filing an enrollment form and paying the appropriate fees and assessments due within the time specified in Article III, Sec. 2(A) of the State Bar Rules.
- (b) If an Applicant does not satisfy ~~has not satisfied~~ all requirements for admission to the Texas Bar within two years from the date that the Applicant is notified that the Applicant has passed ~~all parts of~~ the Texas Bar Examination, the Applicant's Texas Bar Examination score is ~~examination scores shall be~~ void; provided, however, that the Board may waive this provision for good cause shown.

### **Rule 3**

#### **Law Study Requirement**

- (a) The law study requirement for eligibility of an Applicant to take the Texas Bar Examination, unless otherwise provided in Rule 13 by these Rules, is met by:

- (1) graduation with a J.D. degree ~~or its equivalent~~ from an approved law school;
  - (2) satisfaction of all requirements for graduation from an approved law school with a J.D. degree ~~or its equivalent~~; or
  - (3) study of law in an approved law school or schools by satisfying all requirements for graduation with a J.D. degree ~~or its equivalent~~, except for not more than four semester hours or its equivalent in quarter hours; provided, however, that no person shall be licensed to practice law until graduation or satisfaction of all requirements for graduation, unless specifically excepted hereunder. ~~If an Applicant under this subsection has not graduated with a J.D. degree or satisfied all requirements for graduation within two years from the date that all parts of the bar examination are satisfactorily completed, the Applicant's examination scores shall be void.~~
- (b) If a law school was an approved law school when the Applicant enrolled, the law school is deemed to be an approved law school as to that Applicant for four years thereafter, regardless of its status when the Applicant graduated. If a law school was an approved law school when the Applicant graduated, the Applicant is deemed to be a graduate of an approved law school, regardless of the status of the school when the Applicant enrolled.
- (c) If an Applicant graduated from a law school that was not an approved law school when the Applicant enrolled and was not an approved law school when the Applicant graduated, the Applicant is not a graduate of an approved law school even if the law school later became or becomes an approved law school.

#### **Rule 4**

##### **Present Good Moral Character and Fitness Requirement**

- (a) No one shall be eligible for admission to the ~~Texas~~ Bar or for certification as a Foreign Legal Consultant until the investigation of such person's moral character and fitness has been completed, and it has been determined by the Board that such individual possesses present good moral character and fitness.
- (b) Good moral character is a functional assessment of character and fitness of a prospective lawyer. The purpose of requiring an Applicant to possess present good moral character is to exclude from the practice of law those persons possessing character traits that are likely to result in injury to future clients, in the

obstruction of the administration of justice, or in a violation of the *Texas Disciplinary Rules of Professional Conduct*. These character traits usually involve either dishonesty or lack of trustworthiness in carrying out responsibilities. There may be other character traits that are relevant in the admission or certification process, but such traits must have a rational connection with the Applicant's present fitness or capacity to practice law and accordingly must relate to the legitimate interests of Texas in protecting prospective clients and in safeguarding the system of justice within Texas.

- (c) Fitness, as used in these Rules, is the assessment of mental and emotional health as it affects the competence of a prospective lawyer. The purpose of requiring an Applicant to possess this fitness is to exclude from the practice of law any person having a mental or emotional illness or condition which would be likely to prevent the person from carrying out duties to clients, courts or the profession. A person may be of good moral character, but may be incapacitated from proper discharge of his or her duties as a lawyer by such illness or condition. The fitness required is a present fitness, and prior mental or emotional illness or conditions are relevant only so far as they indicate the existence of a present lack of fitness.
- (d) The following provisions shall govern the determination of present good moral character and fitness of a Declarant or an Applicant who has been convicted of a felony in Texas or placed on probation for a felony with or without an adjudication of guilt in Texas, or who has been convicted or placed on probation with or without an adjudication of guilt in another jurisdiction for a crime which would be a felony in Texas. A Declarant or Applicant may be found lacking in present good moral character and fitness under this Rule ~~rule~~ based on the underlying facts of a felony conviction or deferred adjudication, as well as based on the conviction or probation through deferred adjudication itself.
  - (1) The record of conviction or order of deferred adjudication is conclusive evidence of guilt.
  - (2) An individual guilty of a felony under subsection (d) this rule is conclusively deemed not to have present good moral character and fitness and shall not be permitted to file a Declaration ~~of Intention to Study Law~~ or an Application ~~application~~ for a period of five years after the completion of the sentence and/or period of probation.
  - (3) Upon a credible showing that a felony conviction or felony probation, either with or without an adjudication of guilt, has been reversed on

review by an appellate court, or that an executive pardon has been granted, the Declarant or Applicant shall be permitted to file a Declaration ~~of Intention to Study Law~~ or an Application.

(e) The following provisions shall govern the determination of present good moral character and fitness of a Declarant or Applicant who has been licensed to practice law in any jurisdiction and has been disciplined, or allowed to resign in lieu of discipline, in that jurisdiction:

(1) A certified copy of the order or judgment of discipline from the jurisdiction is prima facie evidence of the matters contained in such order or judgment, and a final adjudication in the other jurisdiction that the individual in question has committed professional misconduct is conclusive of the professional misconduct alleged in such order or judgment.

(2) An individual disciplined for professional misconduct in the course of practicing law in any jurisdiction or an individual who resigned in lieu of disciplinary action (“disciplined individual”) is deemed not to have present good moral character and fitness and is therefore ineligible to file a Declaration or an Application ~~for Admission to the Texas Bar~~ during the period of such discipline imposed by such jurisdiction, and in the case of disbarment or resignation in lieu of disciplinary action, until the disciplined individual has properly filed an application for re-licensure in the disciplining jurisdiction, in accordance with the procedures established for re-licensure in that jurisdiction, and has obtained a final determination on that application.

Notwithstanding the foregoing provision of this ~~paragraph subsection~~ (e)(2) and except as provided in paragraph (d)(2) Rule 4(d)(2), if the period of discipline imposed by another jurisdiction exceeds five years, the disciplined individual may file a Declaration or an Application after the expiration of five years from the date of imposition of such discipline, provided that (s)he has obtained a final determination on his/her application for re-licensure in the disciplining jurisdiction.

(3) The only defenses available to an Applicant or Declarant under ~~subsection section~~ (e) are outlined below and must be proved by clear and convincing evidence:

- (A) The procedure followed in the disciplining jurisdiction was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process.
  - (B) There was such an infirmity of proof establishing the misconduct in the other jurisdiction as to give rise to the clear conviction that the Board, consistent with its duty, should not accept as final the conclusion on the evidence reached in the disciplining jurisdiction.
  - (C) The deeming of lack of present good moral character and fitness by the Board during the period required under subsection ~~the provisions of section~~ (e) would result in grave injustice.
  - (D) The misconduct for which the individual was disciplined does not constitute professional misconduct in Texas.
- (4) If the Board determines that one or more of the foregoing defenses has been established, it shall render such orders as it deems necessary and appropriate.
- (f) An individual who applies for admission to practice law in Texas or who files a petition for redetermination of present moral character and fitness after the expiration of the five-year period required under paragraph subsection (d)(2) ~~above~~ or after the completion of the disciplinary period assessed or ineligibility period imposed by any jurisdiction under paragraph (e)(2) subsection ~~(e) above~~ shall be required to prove, by a preponderance of the evidence:
- (1) that the best interest of the public and the profession, as well as the ends of justice, would be served by his or her admission to practice law;
  - (2) that (s)he is of present good moral character and fitness; and
  - (3) that during the five years immediately preceding the present action, (s)he has been living a life of exemplary conduct.
- (g) An individual who files a petition for redetermination of present moral character and fitness after an adverse a ~~negative~~ determination based on a felony conviction, felony probation with or without adjudication of guilt, or professional misconduct or resignation in lieu of disciplinary action and whose petition is denied after a hearing, is not eligible to file another petition for redetermination until after the expiration of three years from the date of the Board's order denying the preceding petition for redetermination.

- (h) If an Applicant is alleged to have violated the Texas Bar Examination Security Policy, the Executive Director may withhold delivery of the Applicant's Texas Bar Examination exam results until the allegation is resolved by the Board. If, after notice and a hearing, the Board determines that an Applicant violated the policy, the Board may deem the Applicant to have failed the Texas Bar Examination exam and prohibit the Applicant from taking the Texas Bar Examination exam in the future.

### Rule 5

#### Multistate Professional Responsibility Examination and Texas Law Component Requirements Requirement

- (a) Multistate Professional Responsibility Examination. An ~~No~~ Applicant for admission to the ~~Texas~~ Bar must earn a scaled score of at least 85 on ~~shall be issued a license to practice law in Texas until such person has furnished to the Board evidence that (s)he has passed~~ the Multistate Professional Responsibility Examination (MPRE) ~~with a scaled score of 85.~~
- (b) Texas Law Component.
- (1) Except as provided in paragraph (2), an Applicant for admission to the Bar must successfully complete the Texas Law Component prescribed by the Board and approved by the Supreme Court.
- (2) An Applicant who passed the Texas Bar Examination before February 2021 need not successfully complete the Texas Law Component.

### Rule 6

#### **Declaration of Intention to Study Law General Provisions**

- (a) Every person who is beginning law study in an approved law school in Texas for the first time (an entrant) and who intends to apply for admission to the Bar ~~of Texas~~ shall, unless prohibited from filing by these Rules, file with the Board a Declaration ~~of Intention to Study Law~~, on a form promulgated by the Board.
- (1) The Declaration shall show:
- (A) the history, employment, experience, and educational qualifications of the Declarant;

- (B) any law school in which the Declarant is or was enrolled;
  - (C) the Declarant's criminal history;
  - (D) any history of significant mental illness that is related to a history of misconduct;
  - (E) the Declarant's history with regard to charges of fraud in any legal proceeding;
  - (F) the Declarant's involvement in any civil litigation or bankruptcy proceedings;
  - (G) the Declarant's willingness to take the oath required of attorneys in Texas;
  - (H) the Declarant's history as to compliance with court orders regarding child support and spousal support;
  - (I) the Declarant's history regarding re-payment of federally guaranteed student loans;
  - (J) the Declarant's history regarding the filing of required federal income tax returns and the payment of federal income tax liability;
  - (K) the Declarant's history regarding payment to the IRS of payroll taxes (s)he collected as an employer of others; and
  - (L) such other information regarding the Declarant as the Board deems reasonably related to its investigation of the Declarant's moral character and fitness.
- (2) The Board may also require the Declarant to provide, ~~in addition,~~ such supporting documents relating to the Declarant as the Board deems reasonable.
- (3) The Board may also require the Declarant to execute a consent form supplied by the Board, authorizing all persons, firms, officers, corporations, associations, organizations, and institutions to furnish to the Board or any of its authorized representatives, all relevant documents, records, or other information pertaining to the Declarant.

- (b) The timely filing deadline for such Declaration, ~~for which no late fees shall be charged~~, shall be as follows:
- (1) **Fall entrants, October 1;**
  - (2) **Regular spring entrants, May 1;**
  - (3) **Spring entrants at quarter-hour law schools, June 1;**
  - (4) **Summer entrants, September 15; and**
  - (5) **Entrants transferred from out-of-state schools, within 60 days of matriculation at a Texas law school.**
- (c) Declarations filed with the Board after the foregoing timely filing deadlines ~~deadline~~ will be accepted only upon with the payment of applicable late fees as set forth in Rule 18, so long as they are filed by the final filing deadline set out in Rule 9. However, regardless of the date a Declaration is filed, the Board shall have 270 days from the date the Declaration is filed to conduct its character and fitness investigation and notify the Declarant of the Board's determination, as provided in Rule 8.
- (d) Upon receipt of a Declaration, the Board shall note the filing date in its records. Absent a Declarant's written request to retain a Declaration, all Declarations will be destroyed five years after the date of filing if the Declarant has not applied ~~activated his or her file by applying~~ to take the Texas Bar Examination or to transfer a Uniform Bar Examination score from another State ~~during that five year period~~.
- (e) The Board shall conduct a complete investigation of the moral character and fitness of the Declarant.

## Rule 7 Confidential Information

Pursuant to Under Government Code Section 82.003, the following records of the Board of Law Examiners are exempt from disclosure under the Public Information Act, Texas Government Code, Chapter 552:;

- (a) examinations, including:
- (1) ~~•~~ current or potential future questions, including drafts and related research;

- (2) model answers or scoring keys;
  - (3) the grades, results, or answers of an examinee;
  - (4) raw scores or grader comments; and
  - (5) the name and contact information of any grader who is not a Board member; and
- (b) except as provided by Rule 15, moral character and fitness records and deliberations, including:
- (1) Declarations and Applications, including attachments;
  - (2) any documents resulting from the Board's moral character and fitness investigation of an Applicant; and
  - (3) minutes or recordings of Board meetings or hearings on an Applicant's moral character and fitness.

## **Rule 8**

### **Determination of Declarant Character and Fitness**

- (a) After completing its ~~own~~ investigation, the Board shall ~~thereupon~~ determine whether, on all the documentation before it ~~at this stage~~, the Board is satisfied that the Declarant possesses the good moral character and fitness necessary for admission to the ~~Texas~~ Bar and shall advise the Declarant accordingly, no later than the 270th day after the date the Declaration and fees were filed with the Board. If the determination is that the Declarant does not have the requisite good moral character and fitness, such notice shall include:
- (1) a detailed analysis of the results of the investigation; and
  - (2) an objective list of actions, if any, which the Declarant may take to correct the deficiencies and to become qualified for admission to the Bar ~~bar~~ after completing all other requirements for admission ~~passing the Texas Bar Examination~~.
- (b) A hearing may be set on any such adverse preliminary ~~negative~~ determination, in accordance with ~~the provisions of~~ Rule 15.
- (c) If, after investigation, the Board determines that a Declarant:

- (1) ~~that a Declarant~~ may suffer from chemical dependency, the Board shall direct the Declarant to meet with representatives of the Bar's Lawyers Assistance Program ~~of the State Bar of Texas~~ or a similar program of the State Bar, and may require that the Declarant submit to a treatment facility for evaluation.
- (2)(d) ~~If the Board determines that a Declarant~~ does suffer from chemical dependency, the Board shall assist the Declarant in working with the Bar's Lawyers Assistance Program ~~of the State Bar of Texas~~ or a similar program of the State Bar ~~in order~~ to address the dependency.
- (d)(e) Any preliminary determination that the Declarant possesses the good moral character and fitness necessary for admission to the Texas Bar is issued on the condition that the Declarant has faithfully complied with these Rules. If at any time before the Declarant is certified to the Supreme Court for licensure it appears that the Declarant obtained such preliminary determination via fraud, concealment, deception, material omission, or by failure to comply with these Rules, the Board may suspend such preliminary determination and continue its investigation for an additional 90 days from the date the Board discovers the apparent fraud, concealment, deception, material omission, or failure to comply with these Rules.

## Rule 9 Application to Take the Texas Bar Examination

- (a) Except as provided in (f), every Applicant to take the Texas Bar Examination must file with the Board an Application with and all required fees ~~with the Board~~ by the deadlines ~~deadline~~ stated below.
- (1) *February Texas Bar Examination.*
- (A) *Timely Filing Deadline for Application to Take the Texas Bar Examination Exam.* The timely filing deadline is September 1.
- (B) *Late Filing Deadline for Application to Take the Texas Bar Examination Exam.* If accompanied by a \$150 late filing fee, the Board will accept an Application filed after September 1 and by November 1.

- (C) *Application for Testing Accommodations.* An application for testing accommodations must be filed with the Application to take the Texas Bar Examination exam, but no later than November 1.
  - (D) *Final Filing Deadline for Application to Take the Texas Bar Examination Exam.* If accompanied by a \$300 late fee, the Board will accept an Application submitted by December 1. The Board will not accept an Application for the February Texas Bar Examination examination after December 1 for any reason.
- (2) *July Texas Bar Examination.*
- (A) *Timely Filing Deadline for Application to Take the Texas Bar Examination Exam.* The timely filing deadline is February 1.
  - (B) *Late Filing Deadline for Application to Take the Texas Bar Examination Exam.* If accompanied by a \$150 late filing fee, the Board will accept an Application filed after February 1 and by April 1.
  - (C) *Application for Testing Accommodations.* An application for testing accommodations must be filed with the Application to take the Texas Bar Examination exam, but no later than April 1.
  - (D) *Final Filing Deadline for Application to Take the Texas Bar Examination Exam.* If accompanied by a \$300 late fee, the Board will accept an Application submitted by May 1. The Board will not accept an Application for the July Texas Bar Examination examination after May 1 for any reason.
- (b) The Application shall be made on a form furnished by the Board and calling for information reasonably related to a thorough inquiry into the Applicant's good moral character, fitness, legal education and other qualifications required in these Rules. Applicants who have filed a Declaration required under these Rules shall be required to complete the Application with information relating only to the period since the filing of the Declaration.
  - (c) The Board may require the filing of a Supplemental Investigation Form in situations deemed appropriate by the Board.
  - (d) The Applicant shall furnish proof satisfactory to the Board of compliance with the law study requirements of Rule 3, and no Applicant shall be admitted to the

Texas Bar Examination examination until the Board has determined that these requirements have been met.

- (e) Upon the filing of an Application, the Board shall note the filing date and shall initiate an investigation of the Applicant. For Applicants who filed a Declaration required under these Rules, the investigation shall cover only the period of time subsequent to the filing of the Declaration, unless other matters relevant to moral character or fitness not previously revealed in such Declaration shall have come to the attention of the Board.
- (f) The filing deadlines and ~~applicability of the~~ late fees set out in subsection (a) ~~of this rule~~ shall not apply to re-applicants ~~Re-Applicants~~ who failed the immediately preceding Texas Bar Examination and who therefore could not have met the subsection (a) deadlines. Any such re-applicant ~~Re-Applicant~~ may take the next Texas Bar Examination examination given upon filing a re-application ~~Re-application~~ and paying the required fees by:

(1) December 1, for the February Texas Bar Examination; or

(2) June 1, for the July Texas Bar Examination.

### **Rule 10**

#### **Determination of Applicant Character and Fitness**

- (a) After completing its investigation on the Application, the Board shall determine whether, on all the documentation before it, the Board is satisfied that the Applicant possesses the requisite present good moral character and fitness. The Board must advise an Applicant who timely filed a Declaration of the Board's determination no later than the 150th day after the date the Application ~~or Re-application~~ and fees were filed. The Board must advise all other Applicants of its determination no later than 270 days after the date that the Application and fees were filed. If the determination is that the Applicant does not have the requisite present good moral character and fitness, such notice shall include:
  - (1) a detailed analysis of the results of the investigation; and
  - (2) an objective list of actions, if any, which the Applicant may take to correct the deficiencies and to become qualified for admission to the Bar ~~bar~~ after completing all other requirements for admission ~~passing the bar examination~~.
- (b) If, after investigation, the Board determines that an Applicant:

- (1) ~~that an Applicant~~ may suffer from chemical dependency, the Board shall require the Applicant to obtain a chemical dependency evaluation performed by a mental health professional designated by the Board;
  - (2) ~~does suffer that an Applicant suffers~~ from chemical dependency, the Board shall assist the Applicant in working with the Bar's Lawyers Assistance Program ~~of the State Bar of Texas~~ or a similar program of the State Bar; ~~or-~~
- (c) A hearing may be set on any such adverse preliminary ~~negative~~ determination, in accordance with ~~the provisions of~~ Rule 15.
- (d) Any preliminary determination that the Applicant possesses the requisite present good moral character and fitness is issued on the condition that the Applicant has faithfully complied with these Rules. If at any time before the Applicant is certified to the Supreme Court for licensure it appears that the Applicant obtained such preliminary determination via fraud, concealment, deception, material omission, or by failure to comply with these Rules, the Board may suspend such preliminary determination and continue its investigation for an additional 90 days from the date the Board discovers the apparent fraud, concealment, deception, material omission, or failure to comply with these Rules.
- (e) The Applicant has a continuing duty to ensure the accuracy and completeness of the Applicant's responses on the Application and to update those responses until the Applicant is certified to the Supreme Court for licensure. The Applicant shall notify the Board, in writing, as soon as practicable, but no later than 30 days after the Applicant knew or should have known of any information necessary to ensure the accuracy and completeness of the Applicant's responses. The Applicant shall promptly furnish any additional documentation requested by the Board in connection therewith. The Board is authorized to re-open its investigation for up to 90 days following receipt of any addition, change, or update to information previously provided to the Board.

## Rule 11 Texas Bar Examination

- ~~(a) The Supreme Court, by separate order, has established a list of the subjects for the Texas Bar Examination which shall be open to public inspection at all reasonable times.~~

- (a)(b) The Texas Bar Examination will shall be given at such places as the Board may direct.
- (b)(e) The Texas Bar Examination will shall be given twice a two-times each year, beginning on the Tuesday before the last Wednesday of the months of February and July, unless the Board otherwise directs.
- (c)(d) An Applicant approved to take the Texas Bar Examination must attend the Texas Bar Examination ~~The approved Applicants for an examination are required to be in attendance~~ at the time and place designated by the Board.
- (d)(e) The Texas Bar Examination administered before the February 2021 administration will last shall last two and one-half days and consist shall consist of the Multistate Performance Test (MPT), given on Tuesday morning; the Procedure and Evidence Questions (P&E), given on Tuesday morning; the Multistate Bar Examination (MBE), given on Wednesday; and the Texas Essay Questions (Essays), given on Thursday. After grading the answers to the MPT, the P&E, and the Essays, the resulting raw scores on each of these portions will be scaled to the MBE Multistate Bar Examination, using the standard deviation method. Scores on the various portions of the examination will be weighted as follows: MPT, 10%; P&E, 10%; MBE, 40%; and Essays, 40%. An Applicant must Applicants who earn a combined scaled score of at least 675 (out of a possible 1,000 points) to shall pass the Texas Bar Examination examination. A partial score on any portion of a failed examination must shall not be applied to any subsequent examination.
- (e) The Texas Bar Examination administered beginning with the February 2021 administration will last two days and consist of the Uniform Bar Examination components: the Multistate Essay Examination (MEE), given on Tuesday; the MPT, given on Tuesday; and the MBE, given on Wednesday. Scores on the various portions of the examination will be weighted as follows: MEE, 30%; MPT, 20%; and MBE, 50%. An Applicant must earn a combined scaled score of at least 270 (out of a possible 400 points) to pass the Texas Bar Examination. A partial score on any portion of a failed examination must not be applied to any subsequent examination.
- (f) An Applicant —who, after a combined total of may take no more than five (5) examinations, has failed to pass the Texas Bar Examination or earn a score of at least 270 on the Uniform Bar Examination administered in another State— cannot take another Texas Bar Examination or be admitted to the Bar based on a transferred Uniform Bar Examination score. For However, for good cause

shown, the Board ~~at its discretion~~ may waive this ~~prohibition limitation upon such conditions as the Board may prescribe~~.

- (g) ~~An Any~~ Applicant who has failed ~~the at least two~~ Texas Bar ~~Examination Examinations~~ ~~more than once~~ may submit a written request, within two weeks of the release of ~~the Texas Bar Examination examination~~ results, for a Formal Review of the Applicant's performance on the immediately preceding ~~Texas Bar Examination, examination~~ (excluding the MBE ~~multistate~~ portion). ~~A Such~~ Formal Review ~~means an individual oral review of the Applicant's Texas Bar Examination papers by the examining Board members that takes shall take~~ place in Austin, ~~Texas~~ at a time selected by the Board ~~and shall consist of an individual oral review of such examination papers by the examining members of the Board~~. Regardless of the number of ~~Texas Bar Examinations examinations~~ taken, an Applicant may receive only one Formal Review under ~~the provisions of this subsection paragraph~~.
- (h) ~~An Any~~ Applicant who has failed the ~~Texas Bar Examination examination~~ is eligible to receive a written analysis of the Applicant's performance on the ~~Texas Bar Examination examination~~. The Board may determine the form and content of the written analysis.
- (i) The Board ~~must shall~~ keep, for one year from the date of every ~~Texas Bar Examination examination~~, all failing ~~Texas Bar Examinations examinations~~. The Board ~~need not shall not be required to~~ keep any part of passing ~~Texas Bar Examinations examinations~~.

## Rule 12

### Examinees With Disabilities

- (a) The Texas Bar Examination shall be administered to all eligible Applicants in a reasonable manner, while maintaining the integrity of the ~~Texas Bar Examination examination~~. In each city in which ~~the Texas Bar Examination an examination~~ is administered, the Board shall provide facilities that are reasonably accessible and which enable persons having disabilities to take the ~~Texas Bar Examination examination~~.
- (b) Any Applicant who desires special testing accommodations based upon a disability shall submit a written request to the Board on forms designated by the Board, such request to be submitted at the same time as the Application is submitted.

- (c) A request for special testing accommodations must be accompanied by written proof evidencing the existence of the disability. Statements from licensed physicians or a professional specialist that specifically set forth the physical, mental or emotional handicap or disability and the relationship between the disability and the inability to take the Texas Bar Examination examination under standard conditions shall be required. The Board may require additional information or evidence from the Applicant and may, at its option, seek professional evaluation of such data. The Applicant will be responsible for the cost of obtaining documented medical evidence and other required information.
- (d) After considering the written request of the Applicant and the evidence submitted, the Board shall determine what reasonable special testing accommodations will be granted.
- (e) Board deliberations and determinations regarding the request of an Applicant for testing accommodations on the Texas Bar Examination shall be closed to the public and associated records are confidential. However, this does not limit the Board's option under subsection (c) ~~above~~ to seek professional evaluation of any confidential information supplied by Applicants applicants.

### **Rule 13** **Applicants From Other Jurisdictions**

#### §1 Exemption from the Texas Bar Examination Based on a Transferred Uniform Bar Examination Score

An Applicant who has earned a score of at least 270 on the Uniform Bar Examination in another State must meet the requirements imposed on any other Applicant under these Rules, except that the Applicant is exempt from the requirement of successfully completing the Texas Bar Examination if:

- (a) the Uniform Bar Examination score was reported to the National Conference of Bar Examiners:
  - (1) within two years immediately preceding the filing of the Application; or
  - (2) within the five years immediately preceding the filing of the Application, and the Applicant has been actively and substantially engaged in the lawful practice of law as the Applicant's principal business or occupation for at least two of the last three years immediately preceding the filing of the Application; and

(b) the Applicant has a J.D. degree from an approved law school.

§24 Exemption from the Texas Bar Examination for Applicants Who Are Authorized to Practice Law in Another State

An Applicant who is authorized to practice law in another State state must meet the requirements imposed on any other Applicant under these Rules, except that the Applicant is exempt from the requirement of successfully completing the Texas Bar Examination if the Applicant:

- (a) has been actively and substantially engaged in the lawful practice of law as the Applicant's principal business or occupation for at least five of the last seven years immediately preceding the filing of the Application; and
- (b) has a J.D. degree from an approved law school; ~~and~~
- ~~(c) has not failed the Texas Bar Examination.~~

§32 Exemption from the Law Study Requirement for Applicants Who Are Authorized to Practice Law in Another State

An Applicant who is authorized to practice law in another State state is exempt from the law study requirement prescribed by Rule 3 if the Applicant:

- (a) has been actively and substantially engaged in the lawful practice of law as the Applicant's principal business or occupation for at least three of the last five years immediately preceding the filing of the most recent Application; and
- (b) either;
  - (1) holds a J.D. degree, from an unapproved law school that is accredited in the State state where it is located; or
  - (2) holds the equivalent of a J.D. degree from a law school that is accredited in the State state where it is located and that requires a course of study that is substantially equivalent in duration and substance to the legal education provided by an approved law school.

§43 Exemption from the Law Study Requirement for Foreign Applicants With a Common-Law Legal Education or Who Are Authorized to Practice Law in a Common-Law Country

An Applicant is exempt from the law study requirement prescribed by Rule 3 if the Applicant satisfies the requirements of subsection (a), (b), or (c) below:

(a) the Applicant:

- (1) has completed a course of study at a foreign law school that is accredited in the jurisdiction where it is located, and the course of study is:
  - (A) based on the principles of English common law; and
  - (B) substantially equivalent in duration to the legal education provided by an approved U.S. law school;
- (2) is authorized to practice law in a foreign jurisdiction or another State state; and
- (3) has been actively and substantially engaged in the lawful practice of law for at least three of the last five years immediately preceding the Applicant's most recent Application;

(b) the Applicant:

- (1) has completed a course of study at a foreign law school that is accredited in the jurisdiction where it is located, and the course of study is:
  - (A) based on the principles of English common law; and
  - (B) at least two years in duration; and
- (2) has completed an LL.M. degree that meets the curricular requirements of Section 2 8 at an approved U.S. law school; or

(c) the Applicant:

- (1) is authorized to practice law in a foreign jurisdiction, the jurisprudence of which is based on the principles of English common law; and
- (2) has completed an LL.M. degree that meets the curricular requirements of Section 2 8 at an approved U.S. law school.

§54 Exemption from Law Study Requirement for Foreign Applicants Without a Common-Law Legal Education

An Applicant is exempt from the law study requirement prescribed by Rule 3 if the Applicant satisfies the requirements of subsections (a)-(c) below:

- (a) the Applicant has completed a course of study at a foreign law school that is accredited in the jurisdiction where it is located, and the course of study is:
  - (1) not based on the principles of English common law; and
  - (2) substantially equivalent in duration to the legal education provided by an approved U. S. law school;
- (b) the Applicant has completed an LL.M. degree that meets the curricular requirements of Section 2 8 at an approved U.S. law school; and
- (c) the Applicant is authorized to practice law in a foreign jurisdiction or in another State state.

#### §65 No Degree By Correspondence

A J.D. degree or an equivalent degree completed at a foreign law school that is earned primarily through online courses or other distance-learning programs mediums does not satisfy the requirements of this Rule.

#### §76 Credits Earned at Transfer of Foreign Law Schools

An Applicant may be exempt from the law study requirement under Sections 4 3 or 5 4 even if the Applicant completed his or her course of study at a different foreign law school than the school at which the Applicant began, provided that all coursework and credit hours that count towards the applicable durational requirement are based on the same type of legal system—English common law or other—and are earned at a school accredited in the jurisdiction where it is located.

#### §87 Accreditation of Foreign Law Schools

- (a) If a law school was accredited when the Applicant enrolled, the law school is deemed to be an accredited law school as to that Applicant for four years thereafter, regardless of its status at the date of the Applicant's graduation. If a law school was accredited when the Applicant graduated, the Applicant is deemed to be a graduate of an accredited law school, regardless of the status of the school when the Applicant enrolled.

- (b) If an Applicant graduated from a law school that was not accredited when the ~~Applicant~~ ~~applicant~~ enrolled and was not accredited when the Applicant graduated, the Applicant is not a graduate of an accredited law school even if the law school later became or becomes an accredited law school.
- (c) Notwithstanding Sections ~~4 3~~ and ~~5 4~~, an Applicant is excused from demonstrating that a foreign law school is accredited if the Applicant demonstrates that no entity accredits or approves law schools in the jurisdiction in which the school is located.

§~~28~~ LL.M. Curriculum Criteria

- (a) Unless subsection (b) or (c) applies, for an LL.M. degree to satisfy the requirements of this Rule, the course of study for which the degree is awarded must meet each of the following requirements:
  - (1) the program must consist of minimum of 24 semester hours of credit— or the equivalent, if the law school is on an academic schedule other than a conventional semester system—which must consist of courses in substantive and procedural law or professional skills;
  - (2) the program must require at least 700 minutes of instruction time, exclusive of examination time, for the granting of one semester of credit;
  - (3) the program must include a period of instruction consisting of no fewer than two semesters of least 13 calendar weeks each, or the equivalent thereof, exclusive of reading periods, examinations, and breaks;
  - (4) the program must not be completed exclusively during summer semesters, but a maximum of four semester hours of credit may be earned in courses completed during summer semesters;
  - (5) the program must be completed within 24 months of matriculation;
  - (6) all coursework for the program must be completed at the campus of an approved law school in the United States, except as otherwise permitted by paragraph 8 or subsection (b);
  - (7) the program must include:
    - (A) at least two semester hours of credit in professional responsibility;

- (B) at least two semester hours of credit in legal research, writing, and analysis, which may not be satisfied by a research-and-writing requirement in a substantive law course;
  - (C) at least two semester hours of credit in a course designed to introduce students to distinctive aspects and fundamental principles of United States law, which may be satisfied by an introductory course in the American legal system or a course in United States constitutional law, civil procedure, or contract law—additional credit hours earned in a course that meets the requirements of this subparagraph may be applied towards the requirements of subparagraph (D); and
  - (D) at least six semester hours of credit in subjects tested on the Texas Bar Examination;
- (8) the program may also include, towards satisfaction of the 24 semester hours of credit required by this Rule;
- (A) up to four semester hours of credit in clinical coursework, if:
    - (i) the coursework includes a classroom instructional component that incorporates discussion, review, and evaluation of the clinical experience;
    - (ii) the clinical work is performed under the direct supervision of a member of the law school faculty or instructional staff; and
    - (iii) the time and effort required and the anticipated educational benefit are commensurate with the credit awarded; and
  - (B) up to six semester hours of credit in other coursework related to the law or legal training taught in conjunction with a joint degree program by a member of the law school faculty, a faculty member of the university or college with which the law school is affiliated, or a faculty member of a university or college with which the law school offers a joint degree program—provided that the coursework is completed at the U.S. campus of the law school, university, or college; and

- (9) courses completed online or by other distance-learning programs ~~mediums~~ must not count toward the required minimum 24 semester hours of credit.
- (b) A law school may petition the Board for an exception to the requirements of paragraph subsection (a)(6). The law school must demonstrate to the satisfaction of the Board that the quality of education provided at the school's campus abroad is substantially equivalent to the quality of education provided at the school's U.S. campus.
- (c) An Applicant who completed an LL.M. degree before December prior to, or ~~within two years after, the effective date of this Rule [October 1, 2016 2014]~~ is exempt from demonstrating that the degree meets the curricular requirements of subsection (a).

§109 Proof of Active and Substantial Engagement in the Practice of Law and Authorization to Practice Law in a Foreign Jurisdiction

- (a) An Applicant who seeks exemption from the Texas Bar Examination or the law study requirement under a section of this Rule that requires a period of active and substantial engagement in the practice of law preceding the Application must furnish to the Board proof of active and substantial engagement in the practice of law. But this requirement may not be satisfied by proof of practice *pro hac vice* under Rule 19.
- (b) Unless subsection (c) or (d) applies, an Applicant who seeks exemption from the Texas Bar Examination or the law study requirement under a section of this Rule that requires that the Applicant be authorized to practice law in a foreign jurisdiction or another State state must submit written proof of the authorization from the entity with final jurisdiction over professional discipline in the foreign jurisdiction or State state where the Applicant is authorized to practice. The document must certify:
  - (1) that the Applicant is authorized to practice law in the jurisdiction or State state;
  - (2) the date that the Applicant became authorized to practice law in the jurisdiction or State state; and
  - (3) that the Applicant remains in good standing as an attorney or counselor at law in the jurisdiction or State state.

- (c) The Board may waive the requirements of subsection (b) if an Applicant demonstrates good cause for failing to obtain the certificate required by that subsection.
- (d) Proof of authorization to practice law may be satisfied by proof that the Applicant is lawfully engaged in the practice of law as an in-house counsel in a foreign jurisdiction that requires a person to surrender that person's law license in order to practice in-house.

## **Rule 14**

### **Foreign Legal Consultants**

#### §1 General Requirements ~~for as to~~ Certification

In its discretion, the Supreme Court may certify to practice in Texas as a legal consultant (a "Foreign Legal Consultant"), without examination, an Applicant who satisfies the requirements of subsection (a) or (b):

- (a) the Applicant:
  - (1) for at least three of the five years immediately preceding the Application, has been a member in good standing of a recognized legal profession in a foreign country, the members of which are authorized to practice as attorneys or counselors at law or the equivalent and are subject to effective regulation and discipline by a duly constituted professional body or a public authority;
  - (2) possesses the present good moral character and general fitness requisite for a member of the ~~Texas~~ Bar;
  - (3) is at least 26 years of age; and
  - (4) intends to practice as a Foreign Legal Consultant in Texas and to maintain an office in Texas for that purpose; or
- (b) the Applicant:
  - (1) for at least three of the five years immediately preceding the Application:
    - (A) has been authorized to practice law in a foreign jurisdiction;

- (B) has been a member in good standing of the bar of another State state; or
  - (C) has been actively and substantially engaged in the lawful practice of law in a foreign country or another United States jurisdiction;
- (2) possesses the present good moral character and general fitness requisite for a member of the Texas Bar;
  - (3) is at least 26 years of age; and
  - (4) intends to practice as a Foreign Legal Consultant in Texas only as an employee of and in-house counsel on behalf of a single an individual, corporation, limited liability company, partnership, association, nonprofit entity, or governmental agency whose primary business is not the provision of legal services to the public.

## §2 Application for Certification

An Applicant under this Rule must submit to the Board:

- (a) an Application on the forms designated by the Board, that is signed by both the Applicant and a sponsoring member of the Texas Bar who is in good standing and has been a member of the Texas Bar for at least five years;
- (b) the fee required by the Board Rule 18(a);
- (c) either:
  - (1) a certificate or other document from the entity with final jurisdiction over professional discipline in the foreign jurisdiction or State state where the Applicant is authorized to practice that certifies:
    - (A) that the Applicant is authorized to practice law in the jurisdiction or State state;
    - (B) the date that the Applicant was authorized to practice law in the jurisdiction or State state; and
    - (C) that the Applicant remains in good standing as an attorney or counselor at law in the jurisdiction or State state; or

- (2) if the Applicant seeks certification under subparagraph 1(b)(1)(C) Section 1(b)(1)(C) of this Rule, but the Applicant is not authorized to practice in a foreign jurisdiction or another State state, proof that the Applicant has been actively and substantially engaged in the lawful practice of law in a foreign jurisdiction or another State state for at least three of the five years immediately preceding the Application;
- (d) a duly authenticated English translation of every document required by this Rule, if the original is not in English; and
- (e) any other evidence demonstrating that the Applicant satisfies the requirements of Section 1 of this Rule that the Board may require.

Upon completion of the Board's review of the information submitted by the Applicant and its investigation of the Applicant's qualifications, moral character, and fitness, if the Board determines that Applicant has satisfied the requirements of Sections 1 and 2 of this Rule, the Board must recommend to the Court the certification of the Applicant to practice in Texas as a Foreign Legal Consultant.

### §3 Scope of Practice

A person certified to practice as a Foreign Legal Consultant under this Rule may render legal services in Texas in the manner and to the extent permitted by the jurisdiction in which the person is authorized to practice or, in the case of a person who satisfies the requirements of subparagraph 1(b)(1)(C) Section 1(b)(1)(C) of this rule, to the extent permitted by the jurisdiction in which the person has been actively and substantially engaged in the lawful practice of law. But the Foreign Legal Consultant must not:

- (a) appear for a person other than himself or herself as an attorney in any court, or before any magistrate or other judicial officer, in Texas;
- (b) prepare any instrument effecting the transfer or registration of title to real estate located in the United States of America;
- (c) prepare:
  - (1) any will or trust instrument effecting the disposition on death of any property located in the United States of America and owned by a resident thereof; or
  - (2) any instrument relating to the administration of a decedent's estate in the United States of America;

- (d) prepare any instrument in respect of the marital or parental relations, rights, or duties of a resident of the United States of America, or the custody or care of the children of such a resident;
- (e) render professional legal advice on the law of Texas or of the United States (unless the person is licensed in another State state), except:
  - (1) on the basis of advice from a person, whom the Foreign Legal Consultant has identified to the client, who:
    - (A) is authorized to practice law in Texas or in the United States; and
    - (B) either:
      - (i) serves as co-counsel with the Foreign Legal Consultant on a matter for the client; or
      - (ii) is affiliated with the Foreign Legal Consultant through employment, partnership, or membership in the same law firm, company, or governmental agency; or
  - (2) as an in-house counsel advising the Foreign Legal Consultant's employer in the scope of his or her employment;
- (f) in any way hold himself or herself out as a member of the Bar ~~of Texas~~; or
- (g) carry on his or her practice under, or use utilize in connection with such practice, any name, title, or designation other than one or more of the following:
  - (1) his or her own name;
  - (2) the name of the law firm with which he or she is affiliated;
  - (3) his or her authorized title in the foreign country in which he or she is authorized to practice, which may be used in conjunction with the name of such country; and
  - (4) the title "Foreign Legal Consultant," which may be used in conjunction with the words "authorized to the practice of law in [name of the foreign country in which he or she is authorized to practice]."

§4 Rights and Obligations

Subject to the limitations set forth in Section 3 ~~of this Rule~~, a person certified as a Foreign Legal Consultant under this Rule is considered to be a lawyer affiliated with the Bar ~~of Texas~~ and is entitled and subject to:

- (a) the rights and obligations of a member of the ~~Texas~~ Bar that are set forth in the State Bar Act, the State Bar Rules, and the Texas Disciplinary Rules of Professional Conduct or that arise from the other conditions and requirements that apply to a member of the Bar ~~of Texas~~ under the Texas Disciplinary Rules of Professional Conduct; and
- (b) the rights and obligations of a member of the Bar ~~of Texas~~ with respect to:
  - (1) affiliation in the same law firm with one or more members of the Bar ~~of Texas~~, including by:
    - (A) employing one or more members of the Bar ~~of Texas~~;
    - (B) being employed by one or more members of the Bar ~~of Texas~~ or by any partnership or professional corporation that includes members of the Bar ~~of Texas~~ or that maintains an office in Texas; and
    - (C) being a partner in any partnership or a shareholder in any professional corporation that includes members of the Bar ~~of Texas~~ or that maintains an office in Texas; and
  - (2) attorney-client privilege, work-product privilege, and similar professional privileges.

A person certified as a Foreign Legal Consultant under this Rule is not a “nonlawyer” as that term is used in ~~Rules rule~~ §5.03 or 5.04 of the Texas Disciplinary Rules of Professional Conduct.

A person who receives legal advice from a Foreign Legal Consultant is entitled to all privileges arising from the attorney-client relationship.

## §5 Disciplinary Provisions

- (a) Every person certified to practice as a Foreign Legal Consultant under this Rule is subject to censure, suspension, removal, or revocation of his or her certification to practice by the Supreme Court.

- (b) Every Foreign Legal Consultant must execute and file with the Board, in such form and manner as the Board may prescribe:
- (1) a written commitment
    - (A) to observe the State Bar Act, the State Bar Rules, and the Texas Disciplinary Rules of Professional Conduct, to the extent that the Act and the Rules are applicable to the legal services authorized under Section 3 ~~of this Rule~~; and
    - (B) to notify the Board of any change in the person's good standing as a member of a foreign legal profession and of any final disciplinary action of the professional body or public authority that regulates attorneys in the foreign jurisdiction in which the Foreign Legal Consultant is authorized to practice law; and
  - (2) a notarized document that sets forth the person's address in Texas and designates the Executive Director of the Board as the person's agent for service of process in any action or proceeding brought against the person that arises from legal services rendered or offered to be rendered by the person within or to residents of Texas, whenever after due diligence service cannot be made on the person at the address on file with the Board.
- (c) Service of process on the Executive Director of the Board under paragraph subsection (b)(2) must be made by personally delivering to, and leaving with, the Executive Director, or another person at the office of the Board who is authorized to receive service, two copies of the citation and petition and a fee of \$10. The Board must promptly send one copy to the Foreign Legal Consultant by certified mail, return receipt requested, at the address designated by the Foreign Legal Consultant under paragraph subsection (b)(2).

## §6 Renewal of Certification

- (a) Unless revoked by the Board under Section 7 ~~of this Rule~~, a certification to practice as a Foreign Legal Consultant is valid for one year.
- (b) A Foreign Legal Consultant may renew his or her certification by submitting to the Board at least 60 days before the certification expires:
  - (1) a written request for renewal of the certification;

- (2) The renewal fee required by Rule 18(a);
  - (3) Proof that the Applicant completed three hours of minimum continuing legal education in ethics courses accredited by the ~~State Bar of Texas~~; and
  - (4) a written statement, signed by the Applicant under oath, that the Applicant complied with the terms of the certificate and this Rule during the certification period.
- (c) The Board must grant the Applicant's request unless it determines that the Applicant is not entitled to renew his or her certification under this Rule.
- (d) If the renewal application is timely submitted, the Board must notify the Applicant of the Board's decision before the Applicant's certification expires. If the renewal application is not timely submitted, the Applicant, upon a showing of good cause, may submit a renewal application up to 180 days after the Applicant's certification expires. After the 180-day grace period has passed, an Applicant must reapply for certification under Section 2 ~~of this Rule~~.

#### §7 Revocation of Certification

If the Board determines that a person certified as a Foreign Legal Consultant under this Rule no longer meets the requirements for certification set forth in Section 1, the Board must recommend to the Court that the person's certification be revoked, unless the Board waives under Rule 20(e) the requirements that are lacking.

#### §8 Admission to Bar

If a person certified as a Foreign Legal Consultant under this Rule is subsequently admitted to the ~~Texas~~ Bar under other provisions of these Rules, the certification to practice as a Foreign Legal Consultant is superseded by the license to practice law as a person admitted to the ~~Texas~~ Bar.

### **Rule 15 Hearings**

- (a) The Board shall set a time and place for a hearing on the question of the requisite moral character and fitness of an Applicant or Declarant, under the following circumstances:

- (1) When any Applicant or Declarant who is the subject of an adverse a preliminary ~~negative~~ character and fitness determination files a written request for such a hearing within 30 ~~thirty (30)~~ days of his or her receipt of the Board's letter containing the notice of such determination; or
  - (2) When the Board determines that, in the interest of fairness, such a hearing is necessary regardless of whether the Applicant or Declarant files a timely request for hearing.
- (b) If there are pending proceedings involving the Applicant or Declarant, the resolution of which could affect ~~impact~~ the determination of his/her character and fitness, the Board may exercise its discretion to defer the hearing until such time as the pending proceeding is resolved.
  - (c) Board hearings, deliberations, and determinations relating to the moral character and fitness of an Applicant or Declarant shall be closed to the public and records relating to these subjects are confidential. On written request of an Applicant or Declarant, however, the Applicant or Declarant is entitled to have the hearing open to persons designated by the Applicant or Declarant.
  - (d) Reasonable notice of the time and place for the hearing may be served electronically if the email address of the party or attorney to be served is on file with the Board. Any notice not served electronically may be served in person, by mail, by commercial delivery service, by fax, by email or by such other means as the Board may direct.
  - (e) An Applicant or Declarant, either before or after receiving notice of a hearing, may agree to waive the hearing, stipulate to the facts regarding good moral character and fitness, and allow the Board to proceed with making a final determination as to the Applicant's moral character and fitness under these Rules. An Applicant may additionally agree to a Probationary License and to any conditions imposed by the Board to protect the public.
  - (f) At the hearing:
    - (1) The Board shall have the burden of proof and be required to present evidence that the Applicant or Declarant does not have the requisite good moral character or fitness. Upon the admission of such evidence, the burden of proof shall shift to the Applicant or Declarant to show that the Applicant possesses good moral character and fitness as defined in these Rules. However, in a redetermination hearing on a Probationary License,

the burden of proof shall be on the Probationary Licensee to demonstrate that (s)he has complied with the conditions of the Probationary License.

- (2) The Applicant or Declarant shall be given the opportunity to be present in person and by attorney, to present evidence, to confront and to cross-examine adverse witnesses, and to present argument to the Board on the issues of law and fact; provided, however, that evidence otherwise inadmissible may be admitted if the evidence is of a type on which a reasonably prudent person commonly relies in the conduct of the person's affairs.
- (g) In connection with hearings conducted under this Rule, the Board shall have the authority to administer oaths, issue subpoenas, take depositions, and employ court reporters.
- (h) After the hearing, in closed deliberations, the Board may:
- (1) determine that an Applicant or Declarant has the requisite present good moral character and fitness and, in the case of an Applicant, should be recommended for admission to the ~~Texas~~ Bar;
  - (2) determine that a Declarant should be granted conditional approval of his or her present good moral character and fitness and be required to meet such conditions as the Board deems appropriate;
  - (3) determine that an Applicant should be granted conditional approval of his or her present good moral character and fitness and be recommended for a Probationary License subject to ~~the terms of~~ Rule 16, after meeting all other requirements of these Rules;
  - (4) determine that an Applicant or Declarant does not possess the requisite present good moral character and fitness required for admission to the ~~Texas~~ Bar; ~~or~~
  - (5) defer a decision until such time as the Board has the opportunity to consider further information, evaluations, or documentation as deemed necessary by the Board; ~~or~~
  - (6) in the case of a ~~Probationary License~~ ~~probationary license~~, recommend to the Supreme Court that the license should be renewed in its present form, renewed with additional or amended conditions, or revoked and no regular license be issued.

- (i) Within a reasonable period of time after the decision is made, the Board shall furnish to the Applicant or Declarant a written order setting forth the decision of the Board. If the decision is adverse, such order shall specify the bases of the Board's determination and shall include an objective list of actions, if any, the Applicant or Declarant may take to become qualified for a license to practice law in Texas. Any such order containing a determination that the Applicant or Declarant suffers from chemical dependency shall include provisions setting out the rights under Section 82.038, Texas Government Code. The Board's order may be served electronically if the email address of the party or attorney to be served is on file with the Board. Any notice not served electronically may be served in person, by mail, by commercial delivery service, by fax, by email or by such other means as the Board may direct.
- (j) An individual who has been the subject of a Board order containing an adverse ~~a negative~~ character and fitness determination may petition the Board in writing for a redetermination hearing subject to ~~the provisions of~~ Rule 15 ~~herein~~ on the issue of character and fitness, as follows:
- (1) No petition for redetermination may be filed earlier than the date specified in the Board's order (or if none, then no earlier than 12 ~~twelve~~ months from the date of the hearing), nor more often than once every 12 ~~twelve~~ months.
  - (2) Such individual shall have the burden of proof as to rehabilitation and the possession of present good moral character and fitness.
  - (3) Such individual shall complete and file with the Board a Supplemental Investigation Form and pay the requisite fees therefore within 30 ~~thirty~~ ~~(30)~~ days of the filing of the redetermination petition.
  - (4) This subsection ~~(j)~~ shall not apply to character and fitness redeterminations in Probationary License cases, which are governed under ~~the provisions of~~ Rule 16.
- (k) The following provisions shall govern judicial review of the Board's decisions:
- (1) The affected Applicant or Declarant shall institute, in the district courts of Travis County, Texas proceedings for review of such decision within 60 ~~sixty (60)~~ days after the date the written decision is sent ~~mailed~~ to the Applicant.

- (2) The petition for review shall name the Board as defendant and shall be served on the Executive Director of the Board.
  - (3) After service of such petition, and within the time permitted for filing an answer, the Board shall file with the district court a certified copy of the record of the Board's proceedings.
  - (4) The review of the Board's decision shall be tried by the court without a jury.
  - (5) The court shall determine from the certified record on file whether or not the Board's decision is reasonably supported by substantial evidence. The reviewing court may affirm the action complained of or remand the matter to the Board for further proceedings.
  - (6) Appeals from any final judgment of the court may be taken by either party in the manner provided for in civil actions generally, but no appeal bond shall be required of the Board.
- (l) The Board shall have the authority to adopt such other rules of procedure for character and fitness hearings, not inconsistent with these Rules, as the Board deems necessary or appropriate to implement these Rules.
  - (m) Decisions of the Board on matters other than character and fitness following a hearing under this Rule shall not be subject to judicial review unless another statute or rule specifically provides to the contrary.
  - (n) The Board may assess costs against any Applicant or Declarant who has been sent reasonable notice of a hearing before the Board and who does not appear.

### **Rule 16**

#### **Probationary Licenses**

- (a) The Board shall have the authority to grant conditional approval of the present good moral character and fitness of an Applicant and to recommend the granting of a Probationary License, after the Applicant meets all other requirements under these Rules, in the following circumstances:
  - (1) when the Board determines that the Applicant suffers from chemical dependency or has been convicted of, or is on probation for, a first offense of driving while intoxicated under Texas Penal Code §49.04; or

- (2) in other circumstances in which, on the record before it, the Board determines that the protection of the public requires the temporary monitoring of the Applicant in question.
- (b) The Board shall not have authority to refuse to recommend the granting of a Probationary License to an Applicant who has passed the applicable bar examination solely because the Applicant suffers from chemical dependency or has been convicted for a first offense for driving while intoxicated under Texas Penal Code §49.04.
  - (c) In any order recommending the issuance of a Probationary License to practice law, the Board shall specify the conditions of the license, which may include, but are not limited to, the following:
    - (1) prohibiting the use of alcohol or controlled substances;
    - (2) requiring treatment for chemical dependency;
    - (3) requiring the individual to practice law under the supervision of an attorney admitted to the ~~Texas~~ Bar;
    - (4) requiring submission to periodic, random drug testing;
    - (5) requiring the individual to report periodically to the Board;
    - (6) requiring suspension, for any portion of the probationary period, of an activity for which a license to practice law is required;
    - (7) requiring the individual to reside continuously in Texas during the period of the Probationary License, unless for good cause shown, the Board waives such requirement; or
    - (8) requiring the individual to take specific actions designed to cure or end any deficiencies in his or her moral character and fitness, as determined by the Board.
  - (d) Probationary Licenses shall expire as follows:
    - (1) A Probationary License issued solely because of the Board's determination that the individual suffers from chemical dependency shall expire on the second anniversary of the date on which it is issued, unless temporarily extended hereunder.

- (2) Any other Probationary License shall expire on the date specified by the Board in the ~~order~~ Order recommending issuance of the Probationary License, unless temporarily extended hereunder.
  - (3) The term of a Probationary License may be temporarily extended, upon the request of the Probationary Licensee, in the event that the normal expiration date falls before the Board has had the opportunity to make a redetermination as provided hereunder.
- (e) A Probationary Licensee may apply for a renewal of the Probationary License or for a regular license to practice law, by filing a written request and a Supplemental Investigation Form and the requisite fees, at least 60 ~~sixty (60)~~ days before ~~prior to~~ the expiration date of the Probationary License.
  - (f) The Board shall require any Probationary Licensee issued a Probationary License because of a determination of chemical dependency, before ~~prior to~~ the redetermination hearing, to submit to an evaluation, at the sole cost of the Probationary Licensee, by a licensed mental health professional designated by the Board.
  - (g) After a hearing held subject to ~~the provisions of~~ Rule 15 ~~herein~~ on the redetermination of the character and fitness of a Probationary Licensee, the Board may:
    - (1) recommend, upon a finding of the requisite present good moral character and fitness, the issuance of a regular license to practice law in Texas; provided, however, that in any case in which a Probationary License was issued on the basis of chemical dependency, the Board shall not recommend the Probationary Licensee for regular admission until the Board finds that the Probationary Licensee has successfully completed treatment and has been free from chemical dependency for the preceding two years;
    - (2) recommend, upon a finding that a condition of the Probationary License has been violated:
      - (A) extension of the Probationary License; or
      - (B) termination or immediate revocation of the Probationary License.
  - (h) The Board shall initiate and maintain a working relationship with the Lawyers Assistance Program or similar program of the State Bar ~~of Texas~~ in order to

provide for the evaluation and referral to treatment for those persons issued a Probationary License hereunder. The treatment and professional evaluation shall be at the sole expense of the Probationary Licensee.

- (i) The Board shall initiate and maintain a working relationship with the ~~State Bar of Texas~~ to coordinate disclosure of information concerning an individual's status as a Probationary Licensee. On request, the Board, in coordination with the ~~State Bar of Texas~~, shall inform a member of the public whether a particular individual is a Probationary Licensee. This disclosure may occur via the official website of the ~~State Bar of Texas~~ or other means reasonably available to members of the public. Any information that forms the basis for the issuance of a Probationary License is confidential, as required by statute.
- (j) A person whose Probationary License has been terminated or revoked upon recommendation by the Board must begin the licensure process anew in accordance with the Board order recommending such termination or revocation if the person wishes to attempt re-licensure.

### **Rule 17**

#### **Issuance of License Certificates and Cancellation of License Unlawfully Obtained**

- (a) Upon an Applicant's becoming entitled to a license under these Rules, the Board must certify the Applicant to the Supreme Court, whose Clerk will issue the corresponding license in the form of a written certificate. The license may be issued only in the name shown on a valid, government-issued identification card, except that a given name may be omitted or represented by an initial if the Applicant so requests in writing. No license may be issued using an alias, assumed name, nickname, or abbreviation of a name.
- (b) All law licenses are issued on the condition that the Applicant has faithfully complied with these Rules. If at any time it appears that an Applicant has obtained a license fraudulently or by willful failure to comply with these Rules, after notice and hearing, the Board may recommend to the Supreme Court that the license be withdrawn and canceled, and the name of the license holder stricken from the roll of attorneys.
- (c) No license issued under this Rule is valid unless the license holder has paid all ~~the~~ required fees and has enrolled in the ~~State Bar of Texas~~ in compliance with the State Bar Rules.

(d) The license certificate belongs to the Supreme Court ~~of Texas~~ and must be surrendered to the Court upon proper demand.

**Rule 18  
Fees**

(a) The following provisions shall govern the fees charged by the Board:

<u>Attorney Application Fee .....</u>	<u>\$700</u>
<u>Check Returned for Insufficient Funds Fee.....</u>	<u>\$25</u>
<u>Examination Fee.....</u>	<u>\$150</u>
<u>Fingerprint Processing Fee.....</u>	<u>\$40</u>
<u>Incomplete Application Fee.....</u>	<u>\$75</u>
<u>Investigation Fee.....</u>	<u>\$150</u>
<u>Foreign Legal Consultant Certification Renewal Fee.....</u>	<u>\$150</u>
<u>Foreign Nation Inquiry Fee.....</u>	<u>\$100</u>
<u>Foreign Trained Application Fee .....</u>	<u>\$700</u>
<u>Laptop Examination Fee .....</u>	<u>\$50</u>
<u>Late Fee for Declaration of Intention to Study Law .....</u>	<u>\$150</u>
<u>Late Fee for Texas Bar Examination</u>	
<u>Feb. by November 1 .....</u>	<u>\$150</u>
<u>Feb. by December 1.....</u>	<u>\$300</u>
<u>July by April 1.....</u>	<u>\$150</u>
<u>July by May 1 .....</u>	<u>\$300</u>
<u>MBE Transfer Fee.....</u>	<u>\$25</u>
<u>Military Attorney Application Fee.....</u>	<u>\$25</u>
<u>Practice Time Evaluation Fee .....</u>	<u>\$150</u>
<u>Re-Examination Fee.....</u>	<u>\$75</u>
<u>Student Application Fee .....</u>	<u>\$150</u>
<u>Uniform Bar Examination Transfer Fee.....</u>	<u>\$150</u>

~~FEES RELATING TO DECLARATIONS~~

<del>Declaration Investigation Fee .....</del>	<del>\$150</del>
<del>Fingerprint Card Processing Fee .....</del>	<del>\$ 40</del>
<del>_____</del>	<del>\$190</del>

<del>Late Filing Fee.....</del>	<del>\$150</del>
<del>Fee for Check Returned for Insufficient Funds.....</del>	<del>\$ 25</del>

~~FEES RELATING TO ELIGIBILITY & EXAMINATIONS~~

~~Texas Law Student:~~

~~\$150 Application Fee~~  
~~—95 Examination Fee~~  
~~—55 Investigation Fee~~  
~~\$300~~

~~Out-of-State Law Student:~~

~~\$150 Application Fee~~  
~~—40 Fingerprint Card Processing Fee~~  
~~—150 Examination Fee~~  
~~—150 Investigation Fee~~  
~~\$490~~

~~Attorneys Licensed in another State:~~

~~—\$700 Application Fee~~  
~~—40 Fingerprint Card Processing Fee~~  
~~—150 Examination Fee~~  
~~—150 Investigation Fee~~  
~~\$1,040~~

~~Attorneys Qualified for Admission Without Examination  
Under Rule 13:~~

~~\$700 Application Fee~~  
~~—40 Fingerprint Card Processing Fee~~  
~~—150 Investigation Fee~~  
~~\$890~~

~~Foreign Nation Attorney—Texas Bar Exam Applicant only:~~

~~—\$700 Application Fee~~  
~~—40 Fingerprint Card Processing Fee~~  
~~—150 Examination Fee~~  
~~—150 Investigation Fee~~  
~~—100 Foreign Nation Inquiry Fee~~  
~~\$1,140~~

~~Foreign Nation Attorney—Concurrent Texas Bar Exam and Foreign Legal  
Consultant Applications:~~

~~\$700 Application Fee~~  
~~—150 Foreign Legal Consultation Supplemental Processing Fee~~  
~~—40 Fingerprint Card Processing Fee~~  
~~—150 Examination Fee~~

~~-150 Investigation Fee~~  
~~-100 Foreign Nation Inquiry Fee~~  
~~\$1,290~~

~~Re-application for Examination~~  
~~\$150 Re-application Fee~~  
~~-95 Examination Fee~~  
~~-75 Investigation Fee on Re-Application~~  
~~\$320~~

~~Foreign Legal Consultant—Application only:~~  
~~\$700 Application Fee~~  
~~-40 Fingerprint Card Processing Fee~~  
~~-150 Investigation Fee~~  
~~-100 Foreign Nation Inquiry Fee~~  
~~\$990~~

~~Foreign Legal Consultant Re-Application Fee:~~  
~~\$150 Re-Application Fee~~  
~~-150 Supplemental Investigation Fee~~  
~~————— (every second renewal year only)~~  
~~\$300 —(\$150 in alternate years)~~

~~Supplemental Investigation (S.I.) Fee (as required under Rule 9).....\$150~~  
~~Fingerprint Card Processing Fee.....\$ 40~~  
~~—————~~  
~~————— \$190~~

~~Military Attorney Application Fee.....\$25~~  
~~(as required under Rule 22)~~  
~~Military Attorney Renewal Application Fee.....\$25~~  
~~(as required under Rule 22)~~

~~Late Filing Fees~~

~~February Examination~~

~~— Applications filed by November 1.....\$150~~  
~~— Applications filed by December 1.....\$300~~

~~July Examination~~

~~— Applications filed by April 1.....\$150~~  
~~— Applications filed by May 1.....\$300~~

**Miscellaneous Fees:**

<del>Fee for Check Returned for Insufficient Funds.....</del>	<del>\$25</del>
<del>MBE Transfer Fee.....</del>	<del>\$25</del>
<del>Incompleteness Fee<sup>4</sup>.....</del>	<del>\$75</del>
<del>Laptop Examination Fee.....</del>	<del>\$50</del>

- (b) No refund or transfer of fees will be made in the event of the withdrawal of any Declaration or Application, nor in the event a determination is made by the Board that the Applicant or Declarant does not meet the requirements imposed under these Rules.
- (c) Any fee required under these Rules may be waived or ~~reduced lowered~~ by the Board upon written request and proof of indigence.

**Rule 19**  
**Requirements for Participation in Texas Proceedings**  
**by a Non-Resident Attorney**

- (a) A reputable attorney, licensed in another ~~State state~~ or in a foreign jurisdiction but not in Texas, who resides outside of Texas may seek permission to participate in the proceedings of any particular cause in a Texas court by complying with the requirements of Texas Government Code Section 82.0361 concerning payment of a non-resident attorney fee to the Board ~~of Law Examiners~~ as a mandatory initial requirement. Upon completion of this requirement and receipt of an acknowledgment issued by the Board ~~of Law Examiners~~, the non-resident attorney shall file with the applicable Texas court a written, sworn motion requesting permission to participate in a particular cause. The motion shall contain:
  - (1) the office address, telephone number, fax number, and email address of the non-resident attorney movant;
  - (2) the name and State Bar card number of an attorney licensed in Texas, with whom the non-resident attorney will be associated in the Texas proceedings, and that attorney’s office address, telephone number, fax number, and email address;

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~~<sup>4</sup>The fee shall be imposed when a document (Declaration, Application, Supplemental Investigation, etc.) is received, for the second and subsequent times, which is determined to be incomplete (e.g. unanswered questions, not signed, not notarized, incorrect fees, etc.)~~

- (3) a list of all cases and causes, including cause number and caption, in Texas courts in which the non-resident attorney has appeared or sought leave to appear or participate within the past two years;
  - (4) a list of jurisdictions in which the non-resident attorney is licensed, including federal courts, and a statement that the non-resident attorney is or is not an active member in good standing in each of those jurisdictions;
  - (5) a statement that the non-resident attorney has or has not been the subject of disciplinary action by the Bar or courts of any jurisdiction in which the attorney is licensed within the preceding five years, and a description of any such disciplinary actions;
  - (6) a statement that the non-resident attorney has or has not been denied admission to the courts of any State or to any federal court during the preceding five years;
  - (7) a statement that the non-resident attorney is familiar with the State Bar Act, the State Bar Rules, and the Texas Disciplinary Rules of Professional Conduct governing the conduct of members of the ~~State Bar of Texas~~, and will at all times abide by and comply with the same so long as such Texas proceeding is pending and said Applicant has not withdrawn as counsel therein.
- (b) The motion of the non-resident attorney seeking permission to participate in Texas proceedings must be accompanied by motion of the resident practicing Texas attorney with whom the non-resident attorney will be associated in the proceeding of a particular cause. The motion must contain a statement that the resident attorney finds the Applicant to be a reputable attorney and recommends that the Applicant be granted permission to participate in the particular proceeding before the court.
- (c) The motion of the non-resident attorney must also be accompanied by the proof of payment or proof of indigency acknowledgment issued by the Board ~~of Law~~ ~~Examiners~~.
- (d) The court may examine the non-resident attorney to determine that the non-resident attorney is aware of and will observe the ethical standards required of attorneys licensed in Texas and to determine whether the non-resident attorney is appearing in courts in Texas on a frequent basis. If the court determines that the non-resident attorney is not a reputable attorney who will observe the ethical

standards required of Texas attorneys, that the non-resident attorney has been appearing in courts in Texas on a frequent basis, that the non-resident attorney has been engaging in the unauthorized practice of law in the State of Texas, or that other good cause exists, the court or hearing officer may deny the motion.

- (e) If, after being granted permission to participate in the proceedings of any particular cause in Texas, the non-resident attorney engages in professional misconduct as that term is defined by the State Bar Act, the State Bar Rules, or the Texas Disciplinary Rules of Professional Conduct, the court may revoke the non-resident attorney's permission to participate in the Texas proceedings and may cite the non-resident attorney for contempt. In addition, the court may refer the matter to the Grievance Committee of the Bar District in which the court is located.
- (f) The filing of a motion under this Rule constitutes submission to the jurisdiction of the Grievance Committee for the District in which the court is located. The county in which the court is located is considered the county of residence of the non-resident attorney for purposes of determining venue in any disciplinary action involving the attorney.

## **Rule 20**

### **Organizational and Miscellaneous Powers of the Board**

- (a) Upon completion of the tabulation of grades given on the Texas Bar Examination ~~an examination~~ and approval of such tabulation by the Chairman, the grades shall be released to the examinees in the manner directed by the Board. The Deans of the Law Schools in the State of Texas shall be furnished a list of the candidates passing the Texas Bar Examination ~~examination~~ after release of results to the individual candidates. ~~Before~~ ~~Prior to~~ releasing grades to examinees, no grades shall be given by the Board by telephone to any person, nor shall any Board member or employee of the Board give grades in person to an examinee or anyone inquiring on behalf of an examinee.
- (b) Unless the Court designates the member of the Board who shall serve as Chair, the Board shall have authority to select a Chair. The Board shall select other officers from its own membership, assign their respective duties, may delegate power and authority to one or more of its members, and shall have authority to formulate the procedure of the Board.
- (c) The Board shall ~~keep and~~ maintain its files on Declarants and Applicants until such time as their destruction is authorized, as follows:

- (1) Files in which a regular license has been issued shall be destroyed five ~~(5)~~ years from the date the license was issued.
  - (2) Files in which a Probationary License has been issued but no regular license ~~Regular License~~ has been issued shall be destroyed 10 ~~ten (10)~~ years from the date of the last formal activity on the file (i.e., petition for redetermination, hearing, order, expiration of last term of Probationary License ~~probationary license~~, issuance of regular license following redetermination hearing, etc.).
  - (3) Files in which a Declaration, but not an Application, has been filed shall be destroyed five ~~(5)~~ years from the date the Declaration was filed.
  - (4) Files in which an Application has been filed, but no regular ~~Regular~~ or Probationary License issued, shall be destroyed five ~~(5)~~ years from the date of the last formal activity on the file (i.e., re-application ~~Re-Application~~, examination, hearing, petition for redetermination, etc.), after inputting into the Board's computer data base pertinent and necessary data contained therein.
- (d) Insofar as may be consistent with these Rules, the Board is authorized to make all reasonable regulations, including written interpretations of general application with respect to these Rules or provisions of general application for relevant subjects not covered by these Rules. The Board may also prescribe forms and certificates to be executed by Applicants for admission to the ~~Texas~~ Bar, whether for a first license to practice law or as a practicing attorney of another jurisdiction, or certificates or other forms to be executed by or on behalf of the Board itself.
- (e) The Board is given discretion in the interpretation and application of these Rules. For good cause shown to the satisfaction of the Board, upon written request, waivers of specific requirements described in these Rules may be granted, unless it appears there from that no exceptions are contemplated by the Supreme Court.
- (f) The Board may, in conjunction with its investigation of moral character and fitness or the administration of the bar examination, require Declarants and Applicants to furnish a complete set of fingerprints.
- (g) The Board may delegate its duties to a panel of the Board or to the staff, as necessary and where not prohibited by law; provided, however, that the Board

shall not delegate to staff its authority to make final determinations that an Applicant or Declarant lacks the requisite good moral character and fitness.

- (h) The Supreme Court hereby ~~creates~~ establishes the Board of Law Examiners Fund, into which shall be deposited ~~comprised of~~ all fees and monies received and interest earned by the Board and which shall be used by the Board to administer the functions of the Supreme Court and the Board relating to the licensing of lawyers as directed by the Court. The Fund shall be maintained in one or more financial institutions in Texas, as designated by the Board.
- (i) The Board shall have full power to contract for the performance of all of its functions, and any person dealing or contracting with the Board shall be conclusively entitled to rely upon the Board's written determination that the expense thus incurred or contracted is for a proper function of the Board.
- (j) The disbursement of funds shall be according to such rules, regulations and budgets as the Board may adopt. The Board shall keep a full record of such receipts and disbursements.

## **Rule 21**

### **Civil Immunity**

Without limiting, restricting, or waiving any privilege or immunity otherwise available under Texas State or federal law:

- (a) The Board and its members, employees, and agents are 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 character and fitness qualification, eligibility, examination, monitoring, and licensing of Declarants, Applicants and Probationary Licensees.
- (b) Records, statements of opinion, and other information regarding a Declarant, Applicant, or Probationary Licensee communicated without malice to the Board or to its members, employees, or agents by any person, entity, firm, or institution are privileged, and civil suits for damages predicated thereon are barred.

## **Rule 22**

### **Registration Program for Military Attorneys on Military Assignment in Texas but not Licensed in Texas**

- §1 General Requirements for Registration and Limited Permission to Practice Law

Upon the Board's approval, a military attorney who is admitted to practice law in a State state other than Texas ~~or in a territory of the United States or the District of Columbia~~, and who is a full-time, active-duty military officer serving in the office of a Staff Judge Advocate of the United States Air Force, Army, Navy, Marines, or Coast Guard, a Naval Legal Service Office, or a Trial Service Office, located in Texas, may appear as an attorney and practice law before the courts and other tribunals of Texas in any civil proceeding, subject to the conditions and limitations in this Rule rule and applicable law. This Rule rule does not preclude a non-resident military attorney's request under Rule 19 to participate in the proceedings of a particular cause in a Texas court.

## §2 Specific Requirements

The military attorney must be of good moral character and apply for registration annually by:

- (a) filing an application and paying fees in the form and manner that the Board prescribes;
- (b) presenting satisfactory proof of admission to practice law and current good standing as a member of the bar in any State state or territory of the United States or the District of Columbia;
- (c) complying with the training requirements in this Rule rule; and
- (d) furnishing any additional information or proof that the Board requires in the course of processing the application.

## §3 Training

Permission to practice law under this Rule rule requires that the military attorney complete at least 15 credit hours of Accredited Continuing Legal Education (CLE) Activity, including a minimum of three hours of legal ethics or professional responsibility, within the first year of registration. The minimum of three hours of legal ethics or professional responsibility must also be completed within each subsequent year of registration. ~~As used in this rule, the term Accredited~~ CLE Activity has the meaning assigned by ascribed to it in Article XII of the State Bar Rules.

## §4 No State Bar of Texas Membership or Texas Law License Granted

Military attorneys permitted to practice law under this Rule rule are not, and shall not represent themselves to be, members of the State Bar of Texas or licensed to practice law in the State of Texas.

§5 Termination

The military attorney's privilege to practice law under this ~~Rule rule~~ may be terminated by the Board at any time, with or without cause. In addition, the military attorney's privileges under this ~~Rule rule~~ shall be terminated when the military attorney ends full-time, active-duty military service as described in ~~Section section 1 of this rule~~. The military attorney registered under this ~~Rule rule~~ or the military attorney's supervisory Staff Judge Advocate or other supervisory military attorney shall:

- (a) advise the Board as soon as practicable of any change in the military attorney's status that may affect the military attorney's right to practice law under this ~~Rule rule~~;
- (b) immediately notify each court or tribunal in which the military attorney is involved in a pending civil proceeding when the military attorney is unable to continue to serve as counsel under this ~~Rule rule~~; and
- (c) immediately obtain substitution of counsel when the military attorney involved in any pending civil proceeding is unable to continue to serve as counsel under this ~~Rule rule~~.

§6 ~~Subject-Matter Subject-Matter~~ Jurisdiction, Authorized Clients, and Pleading Requirements

A military attorney granted limited permission to practice law under this ~~Rule rule~~ may, with approval of the military attorney's supervisory Staff Judge Advocate or other supervisory military attorney, represent:

- (a) enlisted military personnel in grades E-1 through E-4; and
- (b) immediate family members who qualify under armed services regulations as dependents of enlisted military personnel in grades E-1 through E-4 if the military attorney's supervisory Staff Judge Advocate or other supervisory military attorney determines that retaining civilian legal counsel for the matter in controversy would present a substantial financial hardship for the family member involved.

A military attorney granted limited permission to practice law under this ~~Rule rule~~ may represent other military personnel, as well as their immediate family members who qualify under armed services regulations as their dependents, only if the military attorney receives written approval from the Judge Advocate General of the Army, Navy, Coast Guard, or Air Force, or the Staff Judge Advocate to the Commandant of the

Marine Corps, as appropriate. The written authorization must include a determination that retaining civilian legal counsel for the matter in controversy would present a substantial financial hardship for the service member or family member involved.

A military attorney granted limited permission to practice law under this ~~Rule rule~~ may not demand or receive any compensation, beyond the military attorney's regular pay and allowances, for the legal services provided under this ~~Rule rule~~.

The practice of a military attorney under this ~~Rule rule~~ shall be subject to the limitations and restrictions of 10 U.S.C. § 1044 and the regulations of that attorney's military service and shall be further limited to:

- (a) cases arising under all Titles, except Title 3, of the Family Code;
- (b) guardianships;
- (c) landlord-tenant disputes on behalf of tenants;
- (d) consumer-law cases on behalf of consumers;
- (e) garnishment defenses;
- (f) estate planning and probate matters;
- (g) enforcement of rights under the Servicemembers Civil Relief Act;
- (h) enforcement of rights under the Uniformed Services Employment and Reemployment Rights Act; and
- (i) other cases within the discretion of the court or tribunal before which the civil proceeding is pending, provided that written permission of the court or tribunal is obtained in advance of the appearance.

All pleadings filed in a civil proceeding by a military attorney under this ~~Rule rule~~ shall ~~expressly disclose state~~ that limited permission to practice in Texas has been obtained under this ~~Rule rule~~; include the name, complete address, and telephone number of the military legal office of the military attorney representing the client and of the military attorney's supervisory Staff Judge Advocate or other supervisory military attorney; and include the name, grade, and armed service of the military attorney who is registered under this ~~Rule rule~~ and providing representation. Upon making an appearance in a civil proceeding, the military attorney shall file a document with the court or other tribunal in which the civil proceeding is pending, designating each individual authorized

to accept service of process on the military attorney's behalf and providing the name and complete address of each authorized individual. If the military attorney does not file this document, the military attorney's agent for service of process shall be the supervisory Staff Judge Advocate or supervisory military attorney whose name appears on the military attorney's most recent application filed pursuant to this Rule, or the successor to that office.

## §7 Discipline

A military attorney granted limited permission to practice law in Texas under this ~~Rule~~ Rule is subject to the *Rules Governing Admission to the Bar of Texas*, the *Texas Disciplinary Rules of Professional Conduct*, the *Texas Rules of Disciplinary Procedure*, and any other rules and laws governing the discipline of attorneys admitted to the ~~State Bar of Texas~~. The ~~State Bar of Texas~~, Supreme Court of Texas, and other Texas courts have jurisdiction over the discipline of the military attorney, regardless of whether the military attorney retains the right to practice in the state, for the military attorney's professional conduct while practicing in this state. This jurisdiction includes, but is not limited to, the authority—concurrent with the Board's authority under ~~Section 5 section 5 of this rule~~ Section 5—to terminate the military attorney's privilege to practice law in Texas under this ~~Rule~~ Rule.