

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

FILED

11/27/2017

Clerk of the
Appellate Courts

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

No. ADM2017-01659

ORDER

By Order filed August 30, 2017, the Court solicited public comment regarding the Tennessee Board of Law Examiner's petition to amend Rule 7 of the Rules of the Tennessee Supreme Court. The Court received comments from the Tennessee Board of Professional Responsibility, as well as additional proposed amendments from the Tennessee Board of Law Examiners.

After due consideration, the Court hereby amends Rule 7 of the Rules of the Tennessee Supreme Court in the form set out in Appendix A to this Order. The Amendments to this Rule shall be effective immediately.

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

IT IS SO ORDERED.

PER CURIAM

APPENDIX

AMENDMENTS TO RULE 7, RULES OF THE TENNESSEE SUPREME COURT

1 **Rule 7. Licensing of Attorneys.**

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4 **Sec. 2.01. Bachelor’s Degree.**

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6 (a) To be eligible to take the examination or to be eligible for licensing without examination
7 pursuant to Article V, an applicant, prior to taking the bar examination, must have received a
8 Bachelor’s Degree or higher from a college on the approved list of the Southern Association of
9 Colleges and Secondary Schools, or the equivalent regional accrediting association, or any
10 accreditation agency imposing at least substantially equivalent standards. As part of the bar
11 examination application, an applicant shall provide evidence of the degree in the form required
12 by the Board.

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14 (b) The Board in its discretion may waive the requirement of a degree from an accredited
15 undergraduate school if the applicant has graduated with a Juris Doctor Degree (herein, “J.D.
16 Degree”) from either: (1) a law school accredited by the American Bar Association (hereafter
17 “ABA”) or (2) a Tennessee law school approved by the Board pursuant to section 2.03 of this
18 Rule.

19
20 **Sec. 2.02. Legal Education and Approval of Law Schools.**

21
22 (a) To be eligible to take the examination or to be eligible for licensing without examination
23 pursuant to Article V, an applicant must have completed a course of instruction in and graduated
24 with a J.D. Degree from a regularly organized law school accredited by the ABA at the time of
25 applicant’s graduation, or a Tennessee law school approved by the Board pursuant to section
26 2.03 of this Rule at the time of the applicant’s graduation.

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28 ...

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

35
36 (1) The attorney holds a J.D. Degree, which is not based on study by correspondence or
37 other than in-person attendance, from a law school approved by an authority similar to
38 the Tennessee Board of Law Examiners in the jurisdiction where it exists and which
39 requires the equivalent of a three-year course of study that is the substantial equivalent of
40 the legal education provided by approved law schools located in Tennessee. The
41 applicant shall bear the cost of the evaluation of his/her legal education, as determined by
42 the Board, and the applicant shall not be eligible to sit for the bar examination until the
43 applicant’s legal education is approved by the Board; and

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

(3) The attorney has been ~~actively and substantially engaged in lawful practice of law as his or her principal business or occupation for at least five of the last seven years immediately preceding the filing of the application~~ primarily engaged in the active practice of law, as defined in section 5.01(c) of this Rule, in one or more states or territories of the United States, or the District of Columbia, for five of the seven years immediately preceding the date upon which the application is filed; and

...

Sec. 4.07. Grading the Examination and Score Expiration.

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

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

(c) In order to be determined eligible for licensing pursuant to section 9.01, Aa score equal to or greater than that required by Tennessee on the Multistate Professional Responsibility Examination (MPRE) must be achieved within two years of successfully completing the Tennessee bar examination; provided, however, that an applicant who:

(1) is licensed by examination in another state in the United States, the District of Columbia, or U.S. Territories,

(2) provides certification that the license is active and in good standing, and

(3) achieved a score ~~of 75 or higher~~ equal to or greater than the score required by Tennessee on the MPRE two (2) or more years before successful completion of the Tennessee bar examination

may provide proof of that earlier score to satisfy the MPRE requirement. It is the responsibility of the applicant to cause MPRE score reports to be furnished to the Board. The minimum MPRE score will be adopted as a statement of policy and approved by the Supreme Court pursuant to section 12.05 of this Rule.

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

(a) **Requirements.** An applicant who meets the requirements of (1) through (6) of this paragraph may, upon motion, be admitted to the practice of law in this jurisdiction. The applicant shall:

- (1) meet the educational requirements imposed by this Rule;
- (2) have been admitted by bar examination to practice law in one or more states or territories of the United States, or the District of Columbia;
- (3) have been primarily engaged in the active practice of law, as defined below, in one or more states or territories of the United States, or the District of Columbia, for five of the seven years immediately preceding the date upon which the application is filed;
- (4) establish that the applicant is currently a member in good standing in all jurisdictions where admitted;
- (5) establish that the applicant is not currently subject to lawyer discipline or the subject of a pending disciplinary matter in any other jurisdiction; and
- (6) establish that the applicant possesses the character and fitness to practice law in this jurisdiction.

...

(c) Active Practice of Law.

(1) For the purposes of this rule, in addition to the definitions of “Practice of Law” and “Law Business” in section 1.01 of this Rule, the “active practice of law” shall include the following activities, if performed in a jurisdiction in which the applicant is admitted, or if performed in a jurisdiction that permits such activity by a lawyer not admitted to practice:

- (A) full-time private or public practice as a licensed attorney;
- (B) teaching law full-time at a law school approved by the ABA;
- (C) service as a judicial law clerk or staff attorney; and
- (D) service as a Judge, Attorney General, Public Defender, U.S. Attorney, District Attorney, or duly registered In-House Counsel or Military Spouse.

Exhibit A

130 (2) For the purposes of this rule, in addition to the definitions of “Practice of Law” and
131 “Law Business” in section 1.01 of this Rule, the “active practice of law” may be
132 construed in the Board’s discretion as being actively engaged in other full-time
133 employment requiring interpretation of law and application of legal knowledge if
134 performed in a jurisdiction in which the applicant is admitted, or if performed in a
135 jurisdiction that permits such activity by a lawyer not admitted to practice; however, in
136 no event shall any activities that were performed pursuant to a provision similar to
137 section 10.04 or section 5.01(g) of this Rule in advance of bar admission in a state or
138 territory of the United States or the District of Columbia be accepted toward the
139 durational requirement. The Board shall consider such evaluative criteria as time devoted
140 to legal work, the nature of the work, whether legal training or a law license was a
141 prerequisite of employment, and other similar matters.

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143 (3) For work to meet the requirement of “active practice of law,” the lawyer must have
144 been licensed, in active status and in good standing in at least one jurisdiction at the time
145 the work was performed, unless the work was performed pursuant to paragraph(c)(1)(B).
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149 **(g) Practice Pending Admission by Applicant Licensed in Another Jurisdiction.** A lawyer
150 currently holding an active license to practice law in another state in the United States, the
151 District of Columbia, or U.S. Territories and who has submitted an application for admission
152 upon motion in compliance with this section 5.01 of this Rule or an application for examination
153 in compliance with section 3.03 of this Rule may provide legal services in this jurisdiction
154 through an office or other systematic and continuous presence during the pendency of the
155 application for admission on motion but for no more than 365 days, provided that the lawyer:

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157 (1) is not disbarred or suspended from practice in any jurisdiction;
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159 (2) has not been denied admission to practice in any jurisdiction, including Tennessee,
160 unless the Board determines otherwise;
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162 (3) reasonably expects his/her application for admission to be granted;
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164 (4) notifies the Board of Professional Responsibility in writing within 30 days of first
165 establishing an office or other systematic and continuous presence for the practice of law
166 in this jurisdiction that the lawyer has done so pursuant to the authority in this section
167 5.01;
168
169 (5) associates with a lawyer who is licensed and in good standing in Tennessee;
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Exhibit A

- 171 (6) complies with Tenn. Sup. Ct. R. 8, RPC 7.1 and RPC 7.5 in all communications with
172 the public and clients regarding the nature and scope of the lawyer's practice authority in
173 Tennessee;
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- 175 (7) pays the fee associated with the Application to Practice Pending Admission;
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- 177 (8) does not appear before a tribunal in Tennessee that requires *pro hac vice* admission
178 unless the lawyer is granted such admission;
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- 180 (9) has never before practiced in Tennessee pursuant to this provision, unless the Board
181 determines otherwise; and
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- 183 (10) notifies the Board of Professional Responsibility and the Board if the lawyer
184 becomes the subject of a pending disciplinary investigation in any other jurisdiction at
185 any time during the period of practice authorized under this provision.
- 186

187 Notwithstanding the provisions of section 12.11, the Board may disclose that an applicant is
188 authorized to practice pursuant to this section and when such authorization terminated.

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192 **Sec. 6.03. Investigating Procedures.**

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194 (a) Each application for admission with examination or without examination shall be referred
195 first to a member of the Board for preliminary review for the purpose of:

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197 (1) detecting any deficiencies in the application; and

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199 (2) determining whether any additional information is needed with respect to any aspect
200 of the application.

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202 (b) As part of the character and fitness requirement for licensing, each applicant, other than an
203 applicant pursuant to section 10.01 of this Rule, is required to have a current completed
204 background investigation conducted by the National Conference of Bar Examiners (NCBE). It is
205 the responsibility of each applicant to make the request to the NCBE for a background
206 investigation and pay the required fee directly to the NCBE. In the event an applicant has not
207 been licensed within two years of submission of the original background investigation, the
208 applicant must request a supplemental investigation at that time and every two years thereafter,
209 until the applicant is licensed or the application is withdrawn or denied.

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211 (c) The Executive Director shall transmit the application and the results of the background
212 investigation, if available at the time of the interview, for each applicant for admission by

Exhibit A

213 examination or re-examination to the chair of the appropriate investigating committee. The chair
214 shall assign applications to committee members for review, interview and investigation.
215

216 (d) On the receipt of an application, the investigating committee member to whom the
217 application has been assigned shall review same and such other information as may be
218 transmitted by the Executive Director and shall conduct such investigation as appears to him or
219 her to be appropriate. In any event, each applicant referred to a committee shall be interviewed in
220 person by a member of that committee. In conducting such investigations, the investigating
221 committee member may take statements from the applicant and from such other persons as may
222 be considered appropriate.
223

224 (e) On the completion of the investigation, the investigating committee member shall report his
225 or her findings to the Board, in the form directed by the Board, and shall recommend fully,
226 recommend with reservations or not recommend the applicant for licensing and admission.
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230 **Sec. 10.01. Registration of In-house Counsel.**
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232 (d) A lawyer registered under this section shall:
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234 (1) Complete the registration process with the Board of Professional Responsibility
235 within 30 days of approval of the application to register under this section;
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237 (~~2~~) Pay all annual fees payable by active members of the bar;
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239 (~~2~~) Fulfill the continuing legal education requirements that are required of active
240 members of the bar;
241

242 (~~3~~) Report to the Board, within 30 days, the following:
243

244 (A) Termination of the lawyer's employment;
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246 (B) Whether or not public, any change in the lawyer's license status in another
247 jurisdiction, including by the lawyer's resignation;
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249 (C) Whether or not public, any disciplinary charge, finding, or sanction
250 concerning the lawyer by any disciplinary authority, court, or other tribunal in any
251 jurisdiction.
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253 (e) A lawyer who is registered or who is required to register under this section shall be subject to
254 Tenn. Sup. Ct. R. 8 (Rules of Professional Conduct) and all other laws and rules governing
255 lawyers admitted to the active practice of law in this State. The Board of Professional

Exhibit A

256 Responsibility has and shall retain jurisdiction over the lawyer who is registered or required to
257 register with respect to the conduct of the lawyer in this or another jurisdiction to the same extent
258 as it has over lawyers generally admitted in this State.

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

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262 (1) The lawyer's employment terminates;

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

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267 (3) The lawyer fails to maintain active status in at least one jurisdiction; or

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269 (4) The lawyer fails to comply with the requirements in paragraph (d)(1) – (4) above.

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

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276 **Sec. 10.04. Practice before Admission by Examination.**

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278 (a) **Eligibility.**

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280 (1) An applicant may register with the Board in order to perform the services described in
281 paragraph (c) of this section provided ...

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283 (D) works in Tennessee under the supervision of a ~~licensed Tennessee attorney~~
284 lawyer who is licensed and in good standing in Tennessee; and ...

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286 (f) Notwithstanding the provisions of section 12.11, the Board may disclose that an applicant is
287 authorized to practice pursuant to this section and may disclose if and when that authorization is
288 terminated.