

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

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APPELLATE COURT CLERK
NASHVILLE

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

No.: ADM2015-00443

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

The Tennessee Board of Law Examiners (the "TBLE") hereby respectfully submits this reply in response to the comments filed in response to the TBLE's Petition to Amend Rules 6 and 7 and Rule 8, RPC 5.5. The TBLE appreciates the time and attention given by esteemed members of the Tennessee Bar and has considered all of the comments and opinions provided.

After careful review of the Amendments in light of the comments, the Board generally agrees with the comments submitted by the Tennessee Bar Association ("TBA"), the Board of Professional Responsibility ("BPR"), and the Law School Deans. The Board disagrees with the amendment to the TBLE's petition submitted by a group of lawyers in support of a military spouse rule for the reasons noted below and proposes an alternative.

The TBLE proposes the following revisions to the original amendments to Rules 6, 7 and 8 (RPC 5.5) of the Tennessee Supreme Court and suggests a revision to Rule 43 of the Tennessee Supreme Court, as noted below:

1. *Rule 6.* There were no comments regarding the proposed amendments to Rule 6 and the TBLE requests the Court to adopt the amendments as written.
2. *Rule 7.* The TBLE proposes the following revisions and additions to the Amendments to Rule 7:
 - a. Section 2.03(g)(ii)1 [at Line 235], regarding education requirements for applicants to a Tennessee approved school, has been modified to reflect the changes proposed in

Section. 2.01 [at Line 73], requiring a bachelor's degree or higher to be earned prior to taking the bar examination.

- b. Section 3.03 [at Line 569] is revised to make the deadline for submitting an application for admission by examination, whether for a first exam or a re-exam, on May 20 for the July examination and on December 20 for the February examination to avoid extended deadlines due to holidays that fall or may fall on the last day of May and December. Amending both to the 20th day of the month provides consistency for both deadlines, which presently are the 10th of January and June.
- c. Section 3.07(b) [at Line 621] is added at suggestion of The Tennessee Lawyers' Assistance Program (TLAP), with whom the TBLE works closely. The new provision provides that, by submitting an application, an applicant agrees to submit to drug testing if requested to do so by the Board. Other options for placement in Rule 7 would be to include this in Article VI regarding the Character and Fitness investigation, Section 10.05 regarding Conditional Admission, or in Article XIII regarding Show Cause, where this issue often arises.
- d. Section 3.11 [at Line 678] is revised, also at suggestion of TLAP, by adding a provision to allow the Board to submit a Request for Non-Standard Testing Accommodations to an appropriate professional for assessment or to refer the applicant to an appropriate professional for assessment in order to determine what accommodation may be required.
- e. Section 4.03 [at Line 722] was revised after experiences in trying to find locations in the named cities (specifically, Memphis and Nashville) for the July 2015 exam. The Board, on further consideration of exam location criteria, suggests changing Section 4.03 to read "in at least one of the three grand divisions." The change allows flexibility in finding locations for the bar exams, allowing the exam to be held in Germantown or Franklin, for example, and usually at a lower cost than within the city limits. Additionally, if a Grand Division has no availability due to high demand in the area, the exam can be split between the two remaining locations. Allowing the Board the flexibility to conduct the exam in only one location statewide for both the February and July exam is an option that leads to consistency in testing with a highly trained and skilled proctor corps and the ability to enter into longer term contracts with space providers. Unless the Court finds that the requirement to hold the bar examination in Knoxville, Memphis and Nashville, specifically provided by the legislature in T.C.A. § 23-1-103, is unconstitutional based on the Supreme Court's decision in *Belmont v. Board of Law Examiners, 1974, 511 S.W.2d 461*, the Board will work to have T.C.A. § 23-1-103 changed to eliminate specific locations for the examination in Tennessee.

- f. Section 4.07(c) [at Line 784] was revised to make the clearer the waiver of the MPRE within two years of a successful examination for applicants licensed in another jurisdiction who are active and in good standing. The Board recognizes that such applicants have continued their legal education and been monitored by the disciplinary authority of the jurisdiction in which they are licensed.
- g. Section 5.01(c) [at Line 881], Active Practice of Law, has been revised to include certain types of practice, as suggested by the BPR, and practice exempt under Rule 43 providing exemption from IOLTA requirements, as part of the definition of active practice of law for purposes of comity admission. Also added is practice under a Military Spouse-type license or registration from another jurisdiction so that time in practice pursuant to a license issued to a Military Spouse by rule in another jurisdiction will count towards comity.
- h. Section 5.01(g) [at Line 917] was added as recommended by the TBA. See paragraph (l) below for additional explanation.
- i. Section 6.03 [at Line 1001] has been revised to clarify who must apply for background investigation (comity and exam applicants, but not In House Counsel) and what the interviewers report to the Board to conform to existing procedures [at Line 1026].
- j. Section 7.01(c) [at Line 1080] was added at the suggestion of Dean Koch of NSL to grandfather in foreign-educated students who began a non-LL.M. program prior to adoption of new LL.M. provisions (i.e., those presently enrolled in NSL for 1/3 the hours required to graduate from a state-approved school or for 24 credit hours at an ABA-accredited school). This is similar to the transition language recommended by the TBA for pending Comity and MJP applications.

Handong Global University, through its Dean, Eric Enlow, submitted a comment regarding the proposed changes to Article VII, specifically changes to Section 7.01(b) requiring a foreign-educated applicant to receive an LL.M. at a law school in the United States. The TBLE respectfully disagrees with the comments of Dean Enlow. The TBLE restates its recommendation to the Court that the revisions of Article VII are to clarify that the supplemental education required, in addition to equivalency to the education required for U.S. educated applicants (a Bachelor's degree or higher plus a J.D. degree), must be taught in English and on location in the United States at a school accredited by the ABA or approved in accordance with Section 2.03. Such a requirement affords the potential foreign-educated applicant the opportunity to practice spoken and written English skills needed for an attorney practicing in this State, as well as familiarity with U.S. laws and customs.

- k. Section 10.01(i) [at Line 1232] was added as recommended by the TBA and makes clear that service to the lawyer’s employer within the first 180 days of employment (the time limit for registration as MJP) does not constitute the unauthorized practice of law.
- l. Section 10.04 [at Line 1444] was changed after comments to incorporate the TBA suggestions to separate the provisions for practice before admission for applicants already licensed in another jurisdiction from the Section 10.04, Practice Before Admission, provisions. New Section 5.01(g) [at Line 923] applies to all applicants for admission who are licensed in another jurisdiction, whether seeking admission without examination or with examination. Subparagraph (ii) of 10.04(a) [at Line 1459] refers applicants who are already licensed to the provisions of 5.01(g).

At the suggestion of the BPR, the term “bar cycle” was removed in 10.04(a)(v) [at Line 1470], and changed to a specific amount of time calculated by determining the maximum amount of time that could pass from the first day applications can be submitted for the July exam (March) until the usual month of the admissions ceremonies for the examination given the following February, which is usually June the year following the first application date, or 16 months:

<u>YEAR 1</u>				<u>YEAR 2</u>			
<u>March</u>	<u>July</u>	<u>October</u>	<u>November</u>	<u>February</u>	<u>March</u>	<u>April</u>	<u>June</u>
Application open for July Year 1 Exam	Exam	Application open for Feb. Year 2 Exam and Grade Release for July Year 1 exam	Admissions Ceremony	Exam	Application open for July Year 2 exam	Grade Release	Admissions Ceremony, February Year 2

All other proposed amendments to Section 10.04 remain unchanged.

- m. Section 10.06 [at Line 1641] is new. The Board wholeheartedly supports and appreciates the service of the members of our military and their families. The TBLE notes a theme of overwhelming support for those who serve in the military and their spouses in the comments submitted to the Court. However, the Board’s responsibility to provide adequate protection from harm to the public directly conflicts with the proposed amendment that would allow the automatic licensing of a military spouse. Consequently, the amendment to Rule 7 submitted by Ms. Josie Beets and others is not a proposition the Board can support in its present form. If, however, the Court wishes to implement such a

provision, the Board feels strongly that the following requirements for issuance of a Temporary License be included in any such rule:

- i. J.D. from an ABA accredited school,
- ii. no adverse disciplinary history in any jurisdiction in which spouse is licensed,
- iii. a background investigation,
- iv. supervision by a Tennessee licensed attorney, and
- v. 15 hours of CLE in Tennessee law to be completed 6 months before or after issuance of the Temporary License.

The proposed Rule relies on suggestions from the TBA and comments submitted by Mark Rassas, a long-serving member of the District Investigating Committee in Montgomery County, who suggests that the Board and Supreme Court look at the Rule for licensing military spouses recently adopted in Kentucky. The placement of the Military Spouse Rule in Article X is a proper reflection of the Special and Limited nature of this practice.

- n. Section 12.05 [at Line 1807] has been revised to change “Rules and Statement of Policy” to “Policy and Procedure” to prevent confusion between Supreme Court Rule and Board rule. Also added is a provision to require the Court to approve adoption of any Policy or Procedure as part of the Court’s oversight of the Board.
- o. Article XVI [at Line 2059] is new, based on comments of the BPR and intervening changes to Rule 9. Sections 16.01 – 16.03 establish procedures for an attorney who has been suspended, disbarred or assumed inactive status to take the bar examination to use as evidence of the attorney’s fitness to practice law. The Sections detail the type of application to be submitted and the applicant’s agreement that the applicant’s scores and background investigation may be provided to the BPR.

3. *Rule 8.* There were no comments regarding the proposed amendments to Rule 8, other than the BPR’s comment in support of the change. The TBLE requests the Court to adopt the amendments as written.

4. *Rule 43, Section 14(b).* This is an addition to the amendments in the TBLE’s original Petition to Amend. Please note the change and comments in paragraph 2(g), above. In the spirit of education and consistency throughout the Supreme Court Rules, the Board recommends an amendment to Rule 43, Section 14 (b) to include as “exempt” from the IOLTA rules In-House Counsel registered pursuant to Tennessee Supreme Court Rule 7, Section 10.01. This change corresponds to the recommended change to Tenn. Sup. Ct. R. 8 (RPC 5.5), that was included in the original Petition to Amend.

The amended Rules delineating all of the deletions and additions, and highlighting the changes addressed in Paragraphs 1 – 3, above, is attached hereto as “Exhibit A.” Attached hereto as “Exhibit B” is a final version of Tennessee Supreme Court Rule 6, Rule 7, Rule 8, RPC 5.5, and Rule 43.

Wherefore, for the foregoing reasons, the Board respectfully requests that this Honorable Court enter an Order amending Tennessee Supreme Court Rule 6, Rule 7, Rule 8, RPC 5.5, and Rule 43, as set forth herein.

Respectfully submitted,

**TENNESSEE BOARD OF LAW
EXAMINERS**

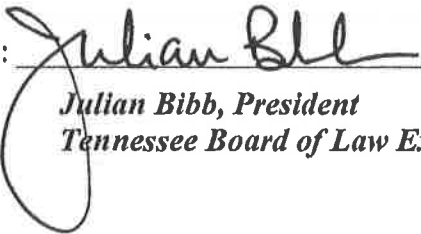
By: 
*Julian Bibb, President
Tennessee Board of Law Examiners*

EXHIBIT A

Rule 6. Admission of Attorneys.

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

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

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

2 **PREFACE**

3 The Board of Law Examiners for the State of Tennessee (herein, the “Board”) is created as a part
4 of the judicial branch of government by The Supreme Court of Tennessee pursuant to its inherent
5 authority to regulate courts. The Supreme Court appoints the members of the Board of Law
6 Examiners and has general supervisory authority over all the Board’s actions. Admission to
7 practice law is controlled by The Supreme Court, which acts on the basis of the certificate of the
8 Board.

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

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

11 No person shall engage in the “practice of law” or the “law business” in Tennessee as defined in
12 T.C.A. § 23-3-101 and Tennessee Supreme Court Rule 9, DR 10.3(e), except pursuant to the
13 authority of this Court, ~~as evidenced by a license issued unless:~~

14 (a) he or she has been:

- 15 (i) admitted to the bar of The Supreme Court in accordance with Rule 6, and
- 16 (ii) issued a license by The Supreme Court in accordance with this Rule and after having
17 been administered the oath in accordance with Rule 6 ~~in accordance with~~ as set forth in this
18 Rule; or ~~in accordance with the provisions of this Rule governing~~

19 (b) he or she has been granted permission to engage in special or limited practice under the
20 provisions of Sections 5.01(g), 10.01, 10.02, 10.03, 10.04 or 10.06 of this Rule; or

21 (c) he or she is practicing in compliance with Tenn. Sup. Ct. R. 8, RPC 5.5(c), Tenn. Sup. Ct. R. 8,
22 RPC 5.5 (d), or Tenn. Sup. Ct. R. 19 (pro hac vice).

23 [Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19,
24 1992.]

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

26 The Supreme Court shall grant a A license evidencing admission to the bar of Tennessee shall be
27 granted by this The Supreme Court only upon presentation of a the Certificate of Eligibility
28 issued by the State Board pursuant to section 9.01 of this rule Rule. The applicant must comply
29 with Rule 6 and obtain his or her license within two years of: (a) the date of the notice that the
30 applicant successfully passed the bar examination; or (2b) the date of the notice of the Board’s
31 approval of the application for admission under Article V of this rule. All bar examination scores
32 and investigations are invalid upon the expiration of the applicable two-year period provided in
33 Section 4.07(b) of this Rule.

34 [Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19,
35 1992.]

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

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

40 (i~~a~~) is ~~of the statutory age~~ at least 18 years of age;

41 (i~~ib~~) has satisfied the educational requirements for admission specified by this Rule;

42 (i~~ic~~) has passed the examination or examinations required by this Rule, or is eligible for
43 admission without examination as hereinafter provided in Article V;

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

47 (i~~ve~~) has evidenced a commitment to serve the administration of justice in this State.

48 [Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19,
49 1992.]

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

51 ~~In the case of~~ If an applicant who has been admitted to practice in another jurisdiction in this
52 ~~country, who~~ in another state in the United States, the District of Columbia, or U.S. Territories
53 satisfies the other requirements for admission, and ~~who~~ demonstrates competence to practice in
54 Tennessee by meeting the criteria specified in this Rule, the Board may waive the requirement of
55 passing an examination as ~~hereinafter~~ provided in Article V. [Amended by order filed August 23,
56 1993, and entered nunc pro tunc effective October 19, 1992.]

57 *Reason for changes: Revised Sec. 1.04 to make the reference to other jurisdictions consistent*
58 *with language throughout the rule.*

59
60 **Sec. 1.05. Status of Persons Admitted.**

61 All persons admitted to the bar of Tennessee are by virtue of such admission: (i) officers of the
62 courts of Tennessee, eligible for admission to practice in any court in this State, and entitled to
63 engage in the "practice of law" or the "law business" as defined in Section 1.01 of this Rule; and
64 (ii) subject to the duties and standards imposed from time to time on attorneys in this State.

65 [Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19,
66 1992.]

67 **Sec. 1.06. Existing Licenses.**

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

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

72 **Sec. 2.01. Bachelor's ~~and Law~~ Degrees.**

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

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

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

93 [Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19,
94 1992; as amended by order filed April 15, 1999, effective May 1, 1999; and by order filed March
95 15, 2010, effective March 15, 2010.]

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

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

103 (b) To be eligible to take the examination, an applicant must cause to be filed as part of the
104 application a certificate from the dean or supervising authority of the school of law in which the
105 applicant is enrolled or from which the applicant graduated, certifying that either the school is
106 accredited by the American Bar Association or the school is a Tennessee law school that has
107 been approved by the Board under Section 2.03 and that:

108 (i) the applicant has completed all the requirements for graduation, or

109 (ii) the applicant will have the number of credit hours required for graduation by the date of
110 the bar examination

111 If an applicant's certificate shows that the applicant has not yet graduated as in (b)(ii) above, the
112 applicant must cause to be filed a supplemental statement by the dean or other supervising
113 authority showing completion of all requirements for graduation by the date of the examination.

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

119 (i) The attorney holds a J.D. Degree, which is not based on study by correspondence
120 or other than in-person attendance, from a law school approved by an authority
121 similar to the Tennessee Board of Law Examiners in the jurisdiction where it exists
122 and which requires the equivalent of a three-year course of study that is the
123 substantial equivalent of the legal education provided by approved law schools
124 located in Tennessee. The applicant shall bear the cost of the evaluation of his/her
125 legal education, as determined by the Board, and the applicant shall not be eligible to
126 sit for the bar examination until the applicant's legal education is approved by the
127 Board; and

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

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

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

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

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

145 [Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19, 1992;
146 as amended by order filed April 15, 1999, effective May 1, 1999. Amended by order filed March
147 15, 2010, effective as of the date of the Order.]

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

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

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

158 (i) An understanding of their professional responsibilities as representatives of clients,
159 officers of the courts, and public citizens responsible for the quality and availability of justice
160 under the law;

161 (ii) A basic legal education through a course of study that develops an understanding of the
162 fundamental principles of public and private law, an understanding of the nature, basis and
163 role of the law and its institutions, and skills of legal analysis and writing, issue recognition,
164 reasoning, problem solving, organization, and oral and written communications necessary to
165 participate effectively in the legal profession.

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

168 (i) It shall be governed by, and its general policies shall be established by, a governing board
169 composed of individuals who are not members of its faculty and who are dedicated to
170 fulfilling the mission or objectives of the school.

171 (ii) It shall have a dean, selected by the governing board, to whom the dean shall be
172 accountable; and who shall be provided with the authority and support needed to carry out
173 the responsibilities of the position.

174 (iii) The dean, with the advice of the faculty or its representatives, shall formulate and
175 administer the educational program of the school, including the course of study; methods of
176 instruction; admission; and academic standards for retention, advancement and graduation of

177 students; and shall recommend to the governing board the selection, retention and
178 compensation of the faculty.

179 (iv) Alumni, students and others may be involved in assisting the governing board, the dean
180 and the faculty in developing policies and otherwise in fulfilling the mission or objectives of
181 the school, in a participatory or advisory capacity.

182 (v) A school shall not be conducted as a commercial enterprise, and the compensation of any
183 person shall not depend on the number of students or on the fees received.

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

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

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

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

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

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

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

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

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

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

211 (ii) The course of study shall:

- 212 1) include instruction in those subjects generally regarded as the core of the law school
213 curriculum, including but not limited to the law school subjects covered on the Tennessee
214 bar examination and listed in section 4.04;
- 215 2) be designed to fulfill the school's mission or objectives, including those expressed in
216 paragraph (a) of this Section;
- 217 3) include at least one rigorous writing experience;
- 218 4) require at least the minimum standards of class hours required from time to time
219 under the American Bar Association standards for approval of law schools for the
220 particular category of school;
- 221 5) be based on a schedule of classes to meet the minimum standards of class hours,
222 which schedule may include weekend classes;
- 223 6) include adequate opportunities, and emphasis on, instruction in professional skills,
224 particularly skills in written communication.
- 225 (iii) a school shall adopt and adhere to sound standards of academic achievement, including:
- 226 1) clearly stated standards for good standing, advancement and graduation; and
227 2) termination of enrollment of a student whose inability or unwillingness to do
228 satisfactory work is sufficiently manifest so that such student's continuation in school
229 would inculcate false hopes, constitute economic exploitation, or detrimentally affect
230 the education of other students.
- 231 (g) Admissions. A school shall adopt and adhere to admission policies consistent with the
232 following standards:
- 233 (i) A school's admission policy shall be based on, and consistent with, its mission or
234 objectives.
- 235 (ii) To be admitted, an applicant must have:
- 236 1) Received or be on course to receive a bachelor's degree or higher as provided in
237 Section 2.01; and
- 238 2) Taken an acceptable test for the purpose of assessing the applicant's capability of
239 satisfactorily completing the school's educational program; (the Law School
240 Admission Test sponsored by the Law School Admission Council qualifies as an
241 acceptable test; and the use of any other test must be approved by the Board) and
- 242 3) Satisfied the minimum requirements for admission established by the governing board
243 of the school; and
- 244 4) Satisfied the dean and Admissions Committee that the applicant possesses good moral
245 character.

246 *Reason for changes: Makes this provision consistent with the change in Sec. 2.01 that allows for a bachelor's degree or higher prior to taking the bar examination.*

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

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

- 252 (i) a statement of mission or objectives;
- 253 (ii) admission data;
- 254 (iii) tuition, fees, living costs, financial aid, and refunds;
- 255 (iv) enrollment data and graduation rates;
- 256 (v) composition and number of faculty and administrators;
- 257 (vi) description of educational program and curricular offerings;
- 258 (vii) library resources;
- 259 (viii) physical facilities; and
- 260 (ix) placement rates and bar passage data.

261 (i) Self-Study.

262 (i) The dean and faculty shall develop and periodically revise a written self-study,
263 including an evaluation of the following topics:

- 264 1) the continuing relevance of the school's mission or objectives;
- 265 2) the effectiveness of the program of legal education;
- 266 3) the appropriateness of the school's admission policies;
- 267 4) the significance of the trend in rates of graduation and attrition; ~~and~~
- 268 5) the significance of the trends in the pass/fail rate on the bar examination;
- 269 6) the strengths and weaknesses of the school's policies;
- 270 7) goals to improve the educational program; and
- 271 8) means to accomplish unrealized goals.

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

274 (j) Functions of Board.

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

- 279 (ii) The Board is authorized to make inquiry to the school and respond to inquiry by the
280 school and to adopt such additional standards as in its judgment the educational needs of the
281 school may justify, which changes shall be subject to The Supreme Court's approval.
- 282 (iii) The Board may require a school to furnish such information, including periodic reports,
283 as it deems reasonably appropriate for carrying out its responsibilities. The Board may also
284 require a school to furnish information known to school officials relevant to the character and
285 fitness of its students.
- 286 (iv) The Board may investigate such law schools in accordance with section 2.07, and such
287 investigations shall be confidential to ensure a frank, candid exchange of information and
288 evaluation.
- 289 (v) A law school may be granted approval and be in good standing when it establishes to the
290 satisfaction of the Board that it is in compliance with the standards set forth herein and the
291 Board finds the school is effectively achieving its mission and objectives.
- 292 (vi) If the Board has reasonable cause to believe that a law school does not comply with the
293 standards in section 2.03, and/or the school is not effectively achieving its mission and
294 objectives, it shall inform the school of its apparent non-compliance or failure to effectively
295 achieve its mission or objectives and follow the procedures in sections 2.09, 2.10, 2.11, 2.13
296 and related sections.

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

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

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

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

313

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

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

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

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

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

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

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

332 [Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19,
333 1992.]

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

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

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

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

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

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

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

360 (d) The Board shall schedule the site evaluation of the law school to take place during the
361 academic year at a time when regular academic classes are being conducted. A site evaluation
362 usually requires several days, as classes are visited, faculty quality assessed, admissions policies
363 reviewed, records inspected, physical facilities examined, the library assessed, information
364 reviewed, and consultations held with the chairperson of the board, officers of the institution, the
365 dean of the law school, members of the law school faculty, professional staff, law students, and
366 members of the legal community. In the case of a law school seeking approval, such visit shall
367 be scheduled within three months after receipt by the Board of an application for approval.

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

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

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

384 (h) The Board may not consider any additional information submitted by the school after the
385 school's response to the report has been received by the Board, unless (1) the information is

386 received in writing by the Board at least fifteen (15) days before the Board meeting at which the
387 report is scheduled to be considered, or (2) for good cause shown, the president of the Board
388 authorizes consideration of the additional information that was not received in a timely manner.

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

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

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

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

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

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

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

418 (d) The Board shall give the law school at least thirty (30) days notice of the show cause hearing.
419 The notice shall specify the school's apparent non-compliance with the standards or its failure to
420 effectively achieve its mission or objectives and state the time and place of the hearing. For good
421 cause shown, the president of the Board may grant the school additional time, not to exceed
422 thirty (30) days. Both the notice and the request for extension of time must be in writing. The

423 Board shall send the notice of hearing to the dean of the school by certified or registered United
424 States mail. [Adopted by order entered December 15, 2000, effective January 13, 2001.]

425 **Sec. 2.10. Fact Finder.**

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

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

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

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

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

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

447 (a) The Board shall have available for review at the show cause hearing:

448 (i) the fact finder's report, if any;

449 (ii) the most recent site evaluation report;

450 (iii) any site evaluation questionnaire;

451 (iv) any action letters written subsequent to the most recent site evaluation report, which
452 letters direct the school to rectify non-compliance or correct deficiencies;

453 (v) notice of Board hearing; and

454 (vi) other relevant information.

455 (b) Representatives of the law school, including legal counsel, may appear at the hearing and
456 submit information to demonstrate that the school is currently in compliance with all of the

457 standards and is effectively achieving its mission or objectives or to present a reliable plan for
458 bringing the school into compliance with all of the standards and to correct deficiencies within a
459 reasonable time.

460 (c) The Board may invite the fact finder, if any, and the chairperson or other member of the most
461 recent site evaluation team to appear at the hearing. The law school shall reimburse the fact
462 finder and site evaluation team member for reasonable and necessary expenses incurred in
463 attending the hearing.

464 (d) After the hearing, the Board shall determine whether the law school is in compliance with the
465 standards and whether it is effectively achieving its mission and objectives and, if not, it shall
466 direct the law school to take remedial action or shall impose sanctions, as appropriate.

467 (i) Remedial action may be ordered pursuant to a reliable plan for bringing the school
468 into compliance with all of the standards and to help it achieve its mission and
469 objectives.

470 (ii) If matters of non-compliance or deficiencies are substantial or have been
471 persistent, then the Board may recommend to The Supreme Court that the school be
472 subjected to sanctions other than removal from the list of approved law schools
473 regardless of whether the school has presented a reliable plan for bringing the school
474 into compliance or to correct deficiencies.

475 (iii) If matters of noncompliance or deficiencies are substantial or have been
476 persistent, and the school fails to present a reliable plan for bringing the school into
477 compliance with all of the standards or to correct deficiencies, the Board may
478 recommend to The Supreme Court that the school be removed from the list of
479 approved schools.

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

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

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

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

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

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

490 (a) If the Board determines that a law school is not in compliance with the standards or has
491 effectively failed to achieve its mission and objectives and recommends that the school be placed

492 on probation or removed from the list of approved law schools, the Board shall notify The
493 Supreme Court and request a hearing. The Board shall notify the dean of the school of the time
494 and place of The Supreme Court hearing, which shall be open to the public.

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

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

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

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

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

513 (g) If The Supreme Court imposes sanctions in the absence of a reliable plan for bringing the
514 school into compliance with all of the standards or to correct deficiencies, the Board shall
515 monitor the steps taken by the school to come into compliance. If the Court imposes sanctions
516 pursuant to a reliable plan for bringing the school into compliance with the standards and/or to
517 correct deficiencies, the Board shall monitor the steps taken by the school for meeting its plan.
518 At any time that the school is not making progress toward compliance with all of the standards or
519 to correct deficiencies, or at any time that the school is not meeting the obligations of its plan, or
520 if at the end of a period of time set by the Court for coming into compliance the school has not
521 achieved compliance with all of the standards or corrected all deficiencies, the Board shall
522 forward a recommendation that the school be removed from the list of approved schools. This
523 recommendation shall be heard by the Court under the procedures of this section 2.13 but the
524 only issue for Court consideration will be whether the school has met the terms of its plan or is in
525 compliance with all of the standards or has corrected deficiencies.

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

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

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

532 Upon communication to a law school of a final decision that it is not in compliance with the
533 standards or has failed to effectively achieve its mission or objectives and informing it that it has
534 been ordered to take remedial action or has been placed on probation, the school shall have a
535 period as set by The Supreme Court to come into compliance. The period may not exceed two
536 (2) years unless such time is extended by The Supreme Court, as the case may be, for good cause
537 shown.

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

539 **Sec. 2.15. Conflicts of Interest.**

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

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

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

551 **Sec. 3.01. Application Form.**

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

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

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

559 ~~Each applicant who intends to take the examination for the first time shall file with the Board~~
560 ~~notice of such intention not later than March 1 for taking the July examination and October 1 for~~
561 ~~taking the February examination; provided however, that notices of intent may be filed after such~~
562 ~~dates but no later than June 10 for taking the July examination and January 10 for taking the~~
563 ~~February examination upon payment of the fees for late filing specified in the Board's schedule~~

564 of fees. Such notice shall be in the form prescribed by the Board and shall be accompanied and
565 supplemented by such additional information and documents as the Board may require.

566 Abrogated.

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

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

570 The application process to take the first examination shall begin on March 1 for the July
571 examination and October 1 for the February examination and shall be filed completed no later
572 than April 15 **May 20** for taking the July examination and November 15 **December 20** for
573 taking the February examination; ~~provided however, that applications may be filed after such~~
574 ~~dates but no later than June 10 for taking the July examination and January 10 for taking the~~
575 ~~February examination upon payment of the fee for late filing specified in the Board's schedule of~~
576 ~~fees. No application will be accepted unless a Notice of Intent is filed prior to or simultaneously~~
577 ~~with the application. In order for the Board to have sufficient time to determine each applicant's~~
578 ~~eligibility to sit for the bar examination, all documentation required to be submitted to the Board~~
579 ~~to complete the application process, including submitting the documents required for the~~
580 ~~background investigation required in Section 6.03(b) herein, must be submitted on or before the~~
581 ~~deadline, and all fees must be paid in full on or before the deadline. Original documents that~~
582 ~~must be mailed to the Board must be received on or before the deadline. Applicants who have~~
583 ~~not completed the application process by the deadline are ineligible to sit for the examination.~~
584 The only recourse for failure to complete the application process is to reapply for the next
585 examination. The Board shall list the items necessary for a complete application in the Board
586 Policies and Procedures.

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

589 *Reason for change: As originally proposed, the change was to one deadline of May 31 or December*
590 *30. However, because of potential holidays that would extend the deadline, the recommendation has*
591 *been changed to May 20 and December 20.*

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

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

599 Abrogated.

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

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

603 Abrogated.

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

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

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

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

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

621 **Sec. 3.07. Additional Information.**

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

624 (a) To supplement or explain answers to any question on the application;

625 (b) As to the applicant's character;

626 (c) As to the educational qualifications of the applicant, including information with
627 respect to schools attended by the applicant;

628 (d) As to the experience of the applicant; and

629 (e) As to such other matters as may be considered germane to the provisions of this
630 Rule.

631 (b) The Board or any individual member thereof, as part of the character investigation of an
632 applicant, may request an applicant to submit to a drug test. Failure or refusal to submit to the
633 drug test shall be sufficient cause for the Board to refuse such applicant a license.

634 *After the comment period, at suggestion of TLAP's Executive Director, subsection (b) was*
635 *added to allow the Board to direct and applicant to submit to drug testing as part of the*
636 *character assessment, which would usually occur during a show cause hearing.*

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

645 [Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19,
646 1992.]

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

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

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

657 [Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19,
658 1992.]

659 **Sec. 3.09. False Information.**

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

663 (b) If the ~~Administrator~~ Executive Director or the Board has reason to believe that any person
664 who has been admitted gave false information or made false statements to the Board, the basis

665 for such belief shall be reported to Disciplinary Counsel of the Board of Professional
666 Responsibility.

667 [Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19,
668 1992.]

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

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

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

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

679 The bar examination shall be administered to all eligible applicants in a manner that does not
680 discriminate against applicants with ~~proven disabilities~~ non-standard testing needs. An applicant
681 who is otherwise eligible to take the Tennessee bar examination may request a modification of
682 the manner in which the examination is administered if, ~~by reason of a disability,~~ such applicant
683 is unable to take the examination under normal testing conditions. The Board shall adopt a policy
684 regarding applicants requiring non-standard testing accommodations pursuant to Section 12.05
685 of this Rule. An applicant requesting non-standard testing accommodations ~~should make written~~
686 ~~request to the Board to obtain the necessary forms and procedures and shall complete and file~~
687 ~~same and submit the documents prescribed by the Board with the Board not less than thirty (30)~~
688 ~~days before the deadline for filing the application by the application deadline set forth in Section~~
689 3.03, except when the disability first occurs after the filing deadline. Because the forms and
690 procedures are detailed, requiring the applicant to attach statements from law school officials and
691 treating professionals, any applicant requesting non-standard testing conditions is encouraged to
692 request, complete, and submit the application for admission by examination and the necessary
693 request for non-standard testing and related forms to the Board as early as possible to permit an
694 evaluation of the request. To the extent practicable, any accommodations requested shall be
695 consistent with the security and integrity of the examination. The Board may transmit the
696 application for non-standard testing or refer the applicant to an appropriate professional selected
697 by the Board for assessment and recommendations regarding the accommodation to grant. By
698 submitting a request for non-standard testing, the applicant agrees to the release of the
699 application to an appropriate professional and agrees to appear for assessment, if requested to do
700 so by the Board. [Added by order entered April 15, 1999, effective May 1, 1999.]

701 *After the comment period, at the suggestion of TLAP's Executive Director, a provision was added that allows the Board to direct an applicant to appear or to allow the Board to provide the documentation supporting a non-standard testing request to a professional for assistance in determining the accommodation for the applicant.*

702

703 **ARTICLE IV. THE EXAMINATION**

704 **Sec. 4.01. The Purpose of the Examination.**

705 The purpose of the examination is to enable applicants to demonstrate to the Board that they
706 possess the knowledge, skills and abilities basic to competence in the profession, which are
707 subject to testing. [Amended by order filed August 23, 1993, and entered nunc pro tunc effective
708 October 19, 1992.]

709 **Sec. 4.02. The Structure of the Examination.**

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

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

722 **Sec. 4.03. The Dates and Places of Giving the Examination.**

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

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

729 *The Board proposes an amendment beyond that originally proposed regarding test locations. The*
730 *revised amendment would allow the Board flexibility within the Grand Divisions and the possibility*
731 *to have the exam in one location only each February and July, if that is the most effective practice.*
732 *The major benefits of a single-location exam are that all examinees experience the same exam*
733 *conditions, a trained and experienced proctor pool can be utilized, and administration of the exam*
does not vary from location to location. States with a much larger examinee count than Tennessee,
such as Florida and Ohio, test in a single location.

734

735 **Sec. 4.04. The Scope of the Examination.**

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

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

753 [Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19,
754 1992.]

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

756 In case of failure on examination, the Board may, in its discretion, allow the applicant to take
757 another examination upon ~~the filing of the notice of intent and the supplemental application~~
758 completion of the application process herein provided and the payment of the requisite fee. ~~An~~
759 ~~applicant who has failed 3 or more examinations shall not be permitted to take another~~
760 ~~examination except upon filing with the Board, at the time of the notice of intent to take the~~
761 ~~examination: (i) a statement certifying that applicant has undertaken a course of study designed~~
762 ~~to prepare applicant for the examination, including a description thereof; and (ii) a statement~~
763 ~~from an attorney admitted to practice in this State confirming that such attorney has supervised~~
764 ~~the applicant's course of study. An applicant who has failed 3 or more examinations shall not be~~
765 ~~permitted to take another examination until at least one examination has intervened between the~~

766 ~~last examination which the applicant failed and the one the applicant seeks eligibility to take. If~~
767 ~~the Board determines that the applicant's course of study is not sufficient evidence of additional~~
768 ~~legal education to justify re-examination, the Board may refuse to allow the applicant to take that~~
769 ~~examination.~~

770 [~~Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19,~~
771 ~~1992.]~~

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

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

775 [~~Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19,~~
776 ~~1992.]~~

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

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

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

784 (c) A score equal to or greater than that required by Tennessee on the Multistate Professional
785 Responsibility examination (MPRE) must be achieved within two years of successfully
786 completing the Tennessee bar examination; provided, however, that an applicant who:

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

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

790 (iii) achieved a score of 75 or higher on the MPRE two (2) or more years before
791 successful completion of the Tennessee bar examination

792 may provide proof of that earlier score to satisfy the MPRE requirement. It is the responsibility
793 of the applicant to cause MPRE score reports to be furnished to the Board.

794 *Section 4.07(c) was revised to clarify that applicants licensed, active and in good standing in another*
795 *jurisdiction may submit an MPRE score from longer than two years prior to successful completion of*
796 *the bar exam to meet the MPRE requirement. The rationale from the original petition still applies.*

797 [~~Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19,~~
798 ~~1992.]~~

799 **ARTICLE V. – PERSONS ADMITTED IN OTHER JURISDICTIONS**
800 **SEEKING WAIVER OF EXAMINATION**

801 **~~Sec. 5.01. Minimum Requirement for Admission of Persons Admitted in Other~~**
802 **~~Jurisdictions.~~**

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

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

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

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

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

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

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

835 ~~(fb) An applicant who was admitted and licensed to practice in another state pursuant to a~~
836 ~~“diploma privilege” which exempts an applicant from taking a bar examination may seek a~~
837 ~~waiver of subsection (e) (a)(v) by filing a petition with the Board of Law Examiners setting forth~~
838 ~~the reasons why he or she should be admitted to practice law in Tennessee. The Board shall then~~
839 ~~conduct a hearing in response to the petition, according to the guidelines set forth in section~~
840 ~~13.03, for the purpose of assessing the applicant's reputation, character, knowledge, skills and~~
841 ~~abilities. After considering the totality of the proof presented, the Board shall make a~~
842 ~~recommendation to this Court either for approval or denial of the petition or for such other action~~
843 ~~as the Board may deem appropriate. Any applicant whose petition for waiver of subsection (e) is~~
844 ~~denied by the Board may file a petition for review in this Court pursuant to the procedures set~~
845 ~~forth in Article XIV.~~

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

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

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

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

- 858 (i) meet the educational requirements imposed by this Rule;
859 (ii) have been admitted by bar examination to practice law in one or more states or territories
860 of the United States, or the District of Columbia;
861 (iii) have been primarily engaged in the active practice of law in one or more states,
862 territories, or the District of Columbia for five of the seven years immediately preceding the
863 date upon which the application is filed;
864 (iv) establish that the applicant is currently a member in good standing in all jurisdictions
865 where admitted;
866 (v) establish that the applicant is not currently subject to lawyer discipline or the subject of a
867 pending disciplinary matter in any other jurisdiction; and
868 (vi) establish that the applicant possesses the character and fitness to practice law in this
869 jurisdiction.

870 **(b) Diploma Privilege.** An applicant who was admitted and licensed to practice in another state
871 pursuant to a “diploma privilege” which exempts an applicant from taking a bar examination

872 may seek a waiver of subsection (e) (a)(i) by filing a petition with the Board setting forth the
873 reasons why he or she should be admitted to practice law in Tennessee. The Board shall then
874 conduct a hearing in response to the petition, according to the guidelines set forth in section
875 13.03, for the purpose of assessing the applicant's reputation, character, knowledge, skills and
876 abilities. After considering the totality of the proof presented, the Board shall make a
877 recommendation to The Supreme Court either for approval or denial of the petition or for such
878 other action as the Board may deem appropriate. Any applicant whose petition for waiver of
879 subsection (a)(i) is denied by the Board may file a petition for review in The Supreme Court
880 pursuant to the procedures set forth in Article XIV.

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

882 (i) For the purposes of this rule, in addition to the definitions of "Practice of Law" and "Law
883 Business" in Section 1.01 of this Rule, the "active practice of law" shall include the
884 following activities, if performed in a jurisdiction in which the applicant is admitted, or if
885 performed in a jurisdiction that permits such activity by a lawyer not admitted to practice:

- 886 (1) full-time private or public practice as a licensed attorney;
887 (2) teaching law full-time at a law school approved by the American Bar Association;
888 (3) service as a judicial law clerk or staff attorney; and
889 (4) service as a Judge, Attorney General, Public Defender, U.S. Attorney, District
890 Attorney, or duly registered In-House Counsel or Military Spouse.

891 (ii) For the purposes of this rule, in addition to the definitions of "Practice of Law" and
892 "Law Business" in Section 1.01 of this Rule, the "active practice of law" may be construed in
893 the Board's discretion as being actively engaged in other full-time employment requiring
894 interpretation of law and application of legal knowledge if performed in a jurisdiction in
895 which the applicant is admitted, or if performed in a jurisdiction that permits such activity by
896 a lawyer not admitted to practice; however, in no event shall any activities that were
897 performed pursuant to a provision similar to Section 10.04 or Section 5.01(g) of this Rule in
898 advance of bar admission in some state or territory of the United States or the District of
899 Columbia be accepted toward the durational requirement. The Board shall consider such
900 evaluative criteria as time devoted to legal work, the nature of the work, whether legal
901 training or a law license was a prerequisite of employment, and other similar matters.

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

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

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

911 (i) file an application for admission on motion, including character investigation
912 information, in a manner established by the Board, including all required supporting
913 documents;

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

916 (ii) pay the application fee as adopted pursuant to Section 11.01 of this Rule.

917 (g) Practice Pending Admission by Applicant Licensed in Another Jurisdiction. A lawyer
918 currently holding an active license to practice law in in another state in the United States, the
919 District of Columbia, or U.S. Territories and who has submitted an application for admission
920 upon motion in compliance with this Section 5.01 of this Rule or an application for examination
921 in compliance with Section 3.03 of this Rule may provide legal services in this jurisdiction
922 through an office or other systematic and continuous presence during the pendency of the
923 application for admission on motion but for no more than 365 days, provided that the lawyer:

924 (i) is not disbarred or suspended from practice in any jurisdiction;

925 (ii) has not been denied admission to practice in any jurisdiction, including Tennessee,
926 unless the Board determines otherwise;

927 (iii) reasonably expects his/her application for admission to be granted;

928 (iv) notifies the Board of Professional Responsibility in writing within 30 days of first
929 establishing an office or other systematic and continuous presence for the practice of law in
930 this jurisdiction that the lawyer has done so pursuant to the authority in this Section 5.01;

931 (v) associates with a lawyer who is admitted to practice in Tennessee;

932 (vi) complies with Tenn. Sup. Ct. R. 8, RPC 7.1 and RPC 7.5 in all communications with
933 the public and clients regarding the nature and scope of the lawyer's practice authority in
934 Tennessee;

935 (vii) pays the fee associated with the Application to Practice Pending Admission;

936 (viii) does not appear before a tribunal in Tennessee that requires *pro hac vice* admission
937 unless the lawyer is granted such admission;

938 (ix) has never before practiced in Tennessee pursuant to this provision, unless the Board
939 determines otherwise; and

940 (x) notifies the Board of Professional Responsibility and the Board if the lawyer becomes
941 the subject of a pending disciplinary investigation in any other jurisdiction at any time
942 during the period of practice authorized under this provision.

943 (h) Termination of Right of Practice Pending Admission. The right to practice pending
944 admission established by Section 5.01(g) terminates if the lawyer withdraws the application for
945 admission or if such application is denied; if the lawyer becomes disbarred, suspended, or takes
946 disability inactive status in any other jurisdiction in which the lawyer is licensed to practice law;
947 or if the lawyer fails to timely provide the written notice required by Section 5.01 (g)(iv). Upon

948 termination of the right of practice, the lawyer shall not undertake any new representation that
949 would require the lawyer to be admitted to practice law in this jurisdiction and, within 10 days.
950 shall:

- 951 (i) cease to occupy an office or other systematic and continuous presence for the practice
952 of law in Tennessee unless authorized to do so pursuant to another Rule;
953 (ii) notify all clients being represented in pending matters, and opposing counsel or co-
954 counsel of the termination of the lawyer's authority to practice pursuant to Section 5.01;
955 (iii) and take all other necessary steps to protect the interests of the lawyer's clients.

956 **Sec. 5.02. Additional Considerations.** In determining whether such applicants satisfy the
957 requirements of Section 5.01, the Board shall consider any evidence submitted by the applicant
958 in an effort to demonstrate that the applicant possesses the knowledge, skill and abilities basic to
959 competence in the profession.

960 [Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19,
961 1992.]

962 **Sec. 5.03. [Transferred.]**

963 *After the comment period, the Board revised Sec. 5.01(c) to include types of practice exempt*
964 *under IOLTA that would count as practice for purposes of comity, such as serving as a staff*
965 *attorney or a Judge. At the suggestion of the TBA, 5.01(g) was added to allow practice*
966 *pending admission for applicants who are licensed in another jurisdiction whether applying*
967 *for admission without exam or by exam. Sec. 5.01(h) is also new and specifies events that*
would terminate practice pending admission.

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

969 **Sec. 6.01. Applicable Standard.**

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

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

978

979 **Sec. 6.02. Investigatory Committees.**

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

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

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

998 (d) The Executive Director shall provide an annual report to The Supreme Court in September
999 listing the names of the members of each committee and the name of the committee chair, as
1000 well as a report of recommendations from the Board regarding the size of any committee.

1001 **Sec. 6.03. Investigating Procedures.**

1002 (a) Each application for admission with examination or without examination shall be referred
1003 first to a member of the Board for preliminary review for the purpose of:

- 1004 (i) detecting any deficiencies in the application; and
1005 (ii) determining whether any additional information is needed with respect to any aspect of
1006 the application.

1007 (b) As part of the character and fitness requirement for licensing, each applicant, other than an
1008 applicant pursuant to Section 10.01 of this Rule, is required to have a current completed
1009 background investigation conducted by the National Conference of Bar Examiners (NCBE). It is
1010 the responsibility of each applicant to make the request to the NCBE for a background
1011 investigation and pay the required fee directly to the NCBE. In the event an applicant has not
1012 been licensed within two years of submission of the original background investigation, the
1013 applicant must request a supplemental investigation at that time and every two years thereafter,
1014 until the applicant is licensed, or the application is withdrawn or denied.

1015 (c) The Executive Director shall transmit the application and the results of the background
1016 investigation, if available at the time of the interview, to the chair of the appropriate investigating
1017 committee. The chair shall assign applications to committee members for review, interview and
1018 investigation.

1019 (d) On the receipt of an application, the investigating committee member to whom the
1020 application has been assigned shall review same and such other information as may be
1021 transmitted by the Executive Director and shall conduct such investigation as appears to him or
1022 her to be appropriate. In any event, each applicant referred to a committee shall be interviewed in
1023 person by a member of that committee. In conducting such investigations, the investigating
1024 committee member may take statements from the applicant and from such other persons as may
1025 be considered appropriate.

1026 (e) On the completion of the investigation, the investigating committee member shall report his
1027 or her findings to the Board, in the form directed by the Board, and shall ~~make such~~
1028 ~~recommendations either for approval of the application, the issuance of a Show Cause Order by~~
1029 ~~the Board, or for such other action as the committee member may deem appropriate~~ recommend
1030 fully, recommend with reservations or not recommend the applicant for licensing and admission.

1031 *Changes after comments: Section 6.03 is modified to clarify which applicants must submit an*
1032 *application to the NCBE for a background investigation. Also amended is the type of report*
1033 *the investigating committee member provides to the Board to clarify that the Board determines*
1034 *which applicants will be issued a Show Cause Order.*

1035 **Sec. 6.04. Certificate of Good Moral Character.** An applicant seeking admission to practice
1036 law in Tennessee must submit to the Board of Law Examiners, before permission is granted to
1037 take the Examination, a certificate from the dean or supervising authority of the law school from
1038 which the applicant graduated indicating that to the best of its knowledge and belief the
1039 candidate has demonstrated such reputation and character in the opinion of the law school that
1040 indicates no reasonable basis for substantial doubt that the applicant would adhere to the
1041 standards of conduct required of attorneys in this state and that the law school has provided full
1042 and complete information requested by the Board of Law Examiners regarding the character and
1043 fitness of the candidate. If the applicant has been previously admitted to another jurisdiction, a
1044 certificate of good standing from the highest court of each state to which applicant has been
1045 admitted must accompany the application to the Tennessee Board of Law Examiners. Without
1046 waiving the requirement of proof of good moral character, the Board, in its discretion and for
1047 exceptional circumstances shown by the applicant, may waive the requirement of a certificate of
1048 good standing from the highest court of each state to which applicant has been admitted.

1049 *Amended by Order entered May 15, 2014.*

1050 **ARTICLE VII. FOREIGN-EDUCATED APPLICANTS**

1051 **Sec. 7.01. Eligibility to Take Examination.**

1052 (a) Notwithstanding the provisions of § 2.01 and § 2.02, an applicant who has completed a
1053 course of study in and graduated from a law school in a foreign country, which law school was
1054 then recognized and approved by the competent accrediting agency of such country, may qualify,
1055 in the discretion of the Board, to take the bar examination, provided that the applicant shall
1056 satisfy the Board that his or her undergraduate education and legal education were substantially
1057 equivalent to the requirements of this rule. Applicants shall furnish such additional information
1058 as may be required by the Board to enable the Board to determine the applicant's eligibility for
1059 such admission.

1060 (b) In addition to the requirement in (a), above, the applicant shall also demonstrate to the
1061 satisfaction of the Board that he or she has successfully completed a program of at least 24
1062 semester hours at a law school approved by the American Bar Association or has successfully
1063 earned one-third of the credits necessary to graduate from a Tennessee law school approved by
1064 the Board under § 2.03. An applicant who graduated from a law school in a foreign country shall
1065 also comply with the other pertinent provisions of this rule and shall be required to pass the bar
1066 examination; that the applicant has been awarded, by a law school fully accredited by the
1067 American Bar Association or a Tennessee law school approved by the Board under § 2.03, an
1068 LL.M. Degree for the Practice of Law in the United States in a degree program that meets the
1069 following requirements:

1070 (i) The degree program certifies to the Board, on such form prescribed by the Board, that the
1071 foreign-educated lawyer received his or her legal educations from a law school that is
1072 accredited by the American Bar Association or is a Tennessee law school approved by the
1073 Board pursuant to § 2.03;

1074 (ii) The degree program prepares students for admission to the Bar and for effective and
1075 responsible participation in the United States legal profession; and

1076 (iii) An LL.M. for the Practice of Law in the United States must be taught in English and in
1077 the United States or its territories and must be attended on site at the ABA accredited or
1078 Tennessee approved law school. The program may be full or part-time but, if part-time, the
1079 LL.M. must be completed within 36 months.

1080 (c) A foreign-educated applicant who meets the foreign education requirements in Section
1081 7.01(a) and who began a program of 24 hours at an ABA-accredited or one-third of the credits
1082 necessary to graduate from a Tennessee approved law school no more than twelve months prior
1083 to [the effective date of the amendments to this rule] may, in the discretion of the Board and
1084 upon request for waiver, be deemed eligible to sit for the examination in lieu of the requirements
1085 of Section 7.01(b).

1086

1087 New 7.01(c) was added at the suggestion of Dean Koch of NSL to grandfather in foreign-
1088 educated students who began a non-LL.M. program prior to adoption of new LL.M. provisions
1089 (i.e., those presently enrolled in NSL for 16 credit hours). This is similar to the transition
language recommended by TBA for pending Comity and MJP applications.

1090 [Amended by order filed August 23, 1993 and entered nunc pro tunc effective October 19, 1992;
1091 amended by order filed May 29, 2009, effective August 1, 2010; and amended by order filed July
1092 21, 2011, effective September 1, 2011.]

1093 **Sec. 7.02. Additional Information ~~on Licensed Foreign~~ from Applicants Licensed in a**
1094 **Foreign Country.**

1095 Any applicant licensed to practice in a foreign country desiring admission in Tennessee shall be
1096 required to pass the examination and shall supplement the application with the following
1097 documents:

1098 (ia) a certified copy of the record or license of the court or agency which admitted applicant to
1099 practice law in such country, and

1100 (ib) at least 3 letters from attorneys or judges in such foreign country certifying that applicant is
1101 in good standing at that bar, or was in good standing at that bar when applicant left that foreign
1102 country.

1103 [Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19,
1104 1992.]

1105 **ARTICLE VIII. COMMITMENT TO SERVE THE ADMINISTRATION OF**
1106 **JUSTICE IN TENNESSEE**

1107 **Sec. 8.01. Applicable Standard.**

1108 The requisite commitment to serve the administration of justice in Tennessee subject to the
1109 duties and standards imposed on attorneys in this State shall be evidenced by a statement by the
1110 applicant before examination, or admission by comity, that the applicant agrees to abide by the
1111 duties and standards imposed from time to time on attorneys in this State.

1112 **Sec. 8.02. [Deleted.]**

1113 **Sec. 8.03. [Deleted.]**

1114 **ARTICLE IX. ISSUANCE OF LICENSE—EFFECTIVE DATE OF**
1115 **ADMISSION**

1116 **Sec. 9.01. Certificate of Board.**

1117 (a) Upon the completion of all requirements for ~~admission~~ licensing, including the payment of all
1118 required fees, the Board, acting through the ~~Administrator~~ Executive Director, shall certify to

1119 The Supreme Court that an applicant is eligible for admission and issue to the applicant a
1120 “Certificate of Eligibility for Admission.” The Board shall promptly notify the Clerk of The
1121 Supreme Court and the Board of Professional Responsibility of the issuance of the Certificate of
1122 Eligibility.

1123 (b) The Certificate of Eligibility for Admission (the “Certificate of Eligibility”) shall be valid for
1124 90 days from the date of issuance. The Board, for good cause shown and subject to the time limit
1125 imposed by section 1.02, may grant the applicant a reasonable extension of the time within
1126 which to complete the licensure process, including compliance with Rule 6, if the applicant
1127 shows to the satisfaction of the Board that he or she is unable to complete the process within the
1128 90-day period.

1129 **Sec. 9.02. Issuance of License.**

1130 (a) On the basis of the ~~certificate of the Board~~ Certificate of Eligibility, and upon the successful
1131 applicant’s compliance with Rule 6, The Supreme Court shall issue a license admitting each the
1132 successful applicant to the bar of Tennessee. However, if at any time prior to the administering
1133 of the oath of admission, the Board receives notice of any event that would have changed the
1134 Board’s decision to approve an applicant for licensing, the Board, in its discretion, may revoke
1135 the Certificate of Eligibility.

1136 (b) The license shall be in such form as may be approved by The Supreme Court. Each such
1137 license shall be signed by the members of the Board and the members of the Court.

1138 **Sec. 9.03. Effective Date of Admission.**

1139 An applicant shall not be considered as ~~conditionally admitted on the completion of all the~~
1140 ~~requirements for admission. The Board shall furnish such an applicant with a “Temporary~~
1141 ~~Certificate of Eligibility to Practice Law,” conditioned on final approval by the Court to the bar~~
1142 ~~of Tennessee until issuance of a license by The Supreme Court and upon compliance with Rule~~
1143 ~~6.~~

1144 **Sec. 9.04. Duty of Applicant to Inform Board of Subsequent Events.**

1145 If at any time prior to the issuance of a license to an applicant he or she becomes aware of any
1146 fact or circumstance which might indicate that such applicant is not entitled to admission, such
1147 applicant shall promptly advise the Board of such fact or circumstances.

1148 **Sec. 9.05. Disapproval by the Supreme Court.**

1149 At any time prior to the actual issuance of a license by the Court, the Court may for good cause
1150 disapprove the issuance of such license. On such disapproval, the Court shall enter an order
1151 stating the grounds for such disapproval and may refer the matter to the Board for such further
1152 action as the Court may deem appropriate.

1153

1154 **Sec. 9.06. Replacement Licenses.**

1155 For good cause shown, the Board may recommend to The Supreme Court the issuance of a
1156 replacement license to any person who has previously been licensed to practice law in
1157 Tennessee.

1158 **Sec. 9.07 Denial of License.**

1159 If the decision of the Board to deny an application is based, in whole or in part, on the failure of
1160 the applicant to demonstrate good moral character, due respect for the law, or fitness to practice
1161 law, the applicant may not reapply for admission within a period of thirty-six (36) months after
1162 the issuance of the order denying the application.

1163 **ARTICLE X. SPECIAL OR LIMITED PRACTICE**

1164 **Sec. 10.01. Registration of In-house Counsel**

1165 (a) A lawyer admitted to the practice of law in another United States jurisdiction who has a
1166 continuous presence in this jurisdiction and is employed pursuant to Tenn. Sup. Ct. R. 8, RPC
1167 5.5(d)(1) as a lawyer by an organization, the business of which is lawful and consists of activities
1168 other than the practice of law or the provision of legal services, shall file an application for
1169 registration as in-house counsel within 180 days of the commencement of employment as a
1170 lawyer or if currently so employed then within 180 days of the effective date of this rule, by
1171 submitting to the Board of Law Examiners the following:

1172 (i) A completed application in the form prescribed by the Board;

1173 (ii) A fee in the amount set by the Board pursuant to Article XI:

1174 (iii) Documents proving admission to practice law and current good standing in all
1175 jurisdictions in which the lawyer is admitted to practice law; and

1176 (iv) An affidavit from an officer, director, or general counsel of the employing entity
1177 attesting to the lawyer's employment by the entity and the capacity in which the lawyer is so
1178 employed, and stating that the employment conforms to the requirements of this rule.

1179 (b) A lawyer registered under this section shall have the rights and privileges otherwise
1180 applicable to members of the bar of this jurisdiction with the following restrictions:

1181 (i) The registered lawyer is authorized to provide legal services to the entity client or
1182 its organizational affiliates, including entities that control, are controlled by, or are
1183 under common control with the employer, and for employees, officers and directors
1184 of such entities, but only on matters directly related to their work for the entity and
1185 only to the extent consistent with Tenn. Sup. Ct. R. 8, RPC 1.7; and

1186 (ii) The registered lawyer shall not:

1187 1) Except as otherwise permitted by the rules of this jurisdiction, appear before a
1188 court or any other tribunal as defined in Tenn. Sup. Ct. R. 8, RPC 1.0~~(n)~~(m), or

- 1189 2) Offer or provide legal services or advice to any person other than as described
1190 in paragraph (b)(i), or hold himself or herself out as being authorized to practice
1191 law in this jurisdiction other than as described in paragraph (b)(i) of this Section.
- 1192 (c) Notwithstanding the provisions of paragraph (b) above, a lawyer registered under this section
1193 is authorized to provide pro bono legal services through an established not-for-profit bar
1194 association, pro bono program or legal services program or through such organization(s)
1195 specifically authorized in this jurisdiction.
- 1196 (d) A lawyer registered under this section shall:
- 1197 (i) Pay all annual fees payable by active members of the bar;
 - 1198 (ii) Fulfill the continuing legal education requirements that are required of active
1199 members of the bar;
 - 1200 (iii) Report to the Board, within 30 days, the following:
 - 1201 1) Termination of the lawyer's employment;
 - 1202 2) Whether or not public, any change in the lawyer's license status in another
1203 jurisdiction, including by the lawyer's resignation;
 - 1204 3) Whether or not public, any disciplinary charge, finding, or sanction
1205 concerning the lawyer by any disciplinary authority, court, or other tribunal in
1206 any jurisdiction.
- 1207 (e) A ~~registered~~ lawyer who is registered or who is required to register under this section shall be
1208 subject to Tenn. Sup. Ct. R. 8 (Rules of Professional Conduct) and all other laws and rules
1209 governing lawyers admitted to the active practice of law in this jurisdiction. The Board of
1210 Professional Responsibility has and shall retain jurisdiction over the ~~registered~~ lawyer who is
1211 registered or required to register with respect to the conduct of the lawyer in this or another
1212 jurisdiction to the same extent as it has over lawyers generally admitted in this jurisdiction.
- 1213 (f) A registered lawyer's rights and privileges under this section automatically terminate when:
- 1214 (i) The lawyer's employment terminates;
 - 1215 (ii) The lawyer is suspended or disbarred from practice in any jurisdiction or any
1216 court or agency before which the lawyer is admitted; or
 - 1217 (iii) The lawyer fails to maintain active status in at least one jurisdiction.
- 1218 Upon the occurrence of one or more of the foregoing events, the registered lawyer shall give
1219 notice in writing within 30 days to the Board and to the Board of Professional Responsibility.
- 1220 (g) A registered lawyer whose registration is terminated under paragraph (f)(i) above, may be
1221 reinstated within 180 days of termination upon submission to the Board of the following:
- 1222 (i) An application for reinstatement in a form prescribed by the Board;

- 1223 (ii) A reinstatement fee set by the Board pursuant to Article XI; and
1224 (iii) An affidavit from the current employing entity as prescribed in paragraph (a)(iv).

1225 (h) A lawyer under this rule who fails to register days shall be:

- 1226 (i) Subject to professional discipline in this jurisdiction;
1227 (ii) Ineligible for admission pursuant to Article V of this rule;
1228 (iii) Referred by the Board of Law Examiners to the Board of Professional
1229 Responsibility; and
1230 (iv) Referred by the Board to the disciplinary authority of the jurisdictions of
1231 licensure.

1232 (i) A lawyer's rendering of service to the lawyer's employer prior to timely registration under
1233 this Rule shall not constitute the unauthorized practice of law or otherwise be treated as violating
1234 Tenn. Sup. Ct. R. 8, RPC 5.5 as long as the service are permitted under this Rule for registered
1235 lawyers and the lawyer files the application for registration under Section 10.01(a) of this Rule
1236 within 180 days of the commencement of the lawyer's employment.

1237 (j) A lawyer seeking to practice in this State under the authority of Tenn. Sup. Ct. R. 8, RPC
1238 5.5(d)(1) and who complies fully with the requirements of this Rule on or before ~~June 30, 2010~~
1239 **[insert date that is 180 days from enactment]** shall not be barred from registration under this
1240 Rule, admission pursuant to Article V of this Rule, or from practicing under the authority of
1241 RPC 5.5(d)(1) solely by the fact of prior noncompliance with Tennessee law concerning licensure
1242 of in-house counsel, ~~including RPC 5.5 in the form in which it was in force from and after~~
1243 ~~March 1, 2003.~~
1244 [Amended by order filed October 23, 2009, effective January 1, 2010; and amended by order
1245 filed January 18, 2012.]

1246 *Paragraph (i) is added at suggestion of TBA and provides that practice during the first 180*
1247 *days of employment is not unauthorized practice of law. Paragraph (j) is former paragraph (i)*
1248 *and provides amnesty for those who have not previously registered.*

1249 **Sec. 10.02. Attorneys in Clinical and Related Law School Programs.**

1250 (a) An attorney who is enrolled or employed in a clinical program in an approved Tennessee law
1251 school or who, after graduation from an approved law school, is employed by or associated with
1252 an organized legal services program operated by an approved Tennessee law school providing
1253 legal assistance to indigents in civil or criminal matters, and who is a member of a court of last
1254 resort of another state (the term "state" including Territories and the District of Columbia) shall
1255 be admitted to practice before the courts of this State in all causes in which that attorney is
1256 associated with a legal clinic operated in conjunction with an approved law school. Admission to

1257 practice under this Rule shall be limited to the above causes and shall become effective upon
1258 filing with the ~~Secretary of the Board of Bar Examiners of the State of Tennessee.~~ ;

1259 (i) A certificate of any court of last resort certifying that the attorney is a member in
1260 good standing at the bar of that court; and

1261 (ii) A statement signed by the Dean of the law school that the attorney is enrolled or
1262 employed in a clinical program in an approved Tennessee law school.

1263 (b) When the above requirements are met to the satisfaction of the ~~State Board of Law~~
1264 ~~Examiners, they~~ it shall grant admission to practice to the applicant and shall certify such by
1265 letter to the applicant.

1266 (c) Admission to practice under the Rule shall cease to be effective whenever the attorney ceases
1267 to be enrolled in or associated with such program. When an attorney admitted under this Rule
1268 ceases to be so enrolled or associated, a statement to that effect shall be filed with the ~~Secretary~~
1269 ~~of the Board of Bar Examiners of the State of Tennessee~~ by a representative of the law school or
1270 legal services program. In no event shall admission to practice under this Rule remain in effect
1271 longer than 2 years for any individual admitted under this Rule, except in the discretion of The
1272 Supreme Court in special situations for good cause shown. Attorneys who wish to continue to
1273 practice in the State must seek admission under Article III (by examination) or Article V
1274 (without examination) of this Rule so that they are eligible for licensing prior to the expiration of
1275 the two year period. Time in practice pursuant to this provision will count as "active practice of
1276 law" for purposes of admission pursuant to Article V (without examination) of this Rule.

1277 (d) Attorneys admitted to practice under this Rule may be suspended from practice in the manner
1278 now or hereafter provided by Rule for the suspension or disbarment of attorneys.

1279 **Sec. 10.03. Law Student Practice**

1280 (a) Any law student who has successfully completed one-half of the legal studies required for
1281 graduation from any school of law from which a graduate is eligible under this rule to take the
1282 Tennessee bar examination may, with the written approval of The Supreme Court of Tennessee,
1283 provide legal services to, and/or may appear in any municipal, county, or state court on behalf of,
1284 any person or entity financially unable to afford counsel or on behalf of the state of Tennessee or
1285 of any municipal or county government; provided, however, that the law student is participating
1286 in a law school clinical program, furnishing assistance through a legal aid program, or serving as
1287 an assistant to a District Attorney, Public Defender, the State's Attorney General, the general
1288 counsel of any state agency, or a county or municipal legal director's office, and that the law
1289 student is under the immediate and personal supervision of a member of the law school's faculty,
1290 a licensed legal aid attorney, a District Public Defender or designated Assistant District Attorney
1291 General, a District Public Defender or designate Assistant District Public Defender, the Attorney
1292 General of Tennessee or any assistant in his or her office, the general counsel of any state agency
1293 or any staff attorney in his or her office, or the director of a county or municipal legal office or
1294 designated staff attorney.

1295 (b) Before any student shall be eligible to provide legal services and/or appear in court under this
1296 rule, the dean of the approved law school or the director of the law school clinical program shall
1297 file with The Supreme Court of Tennessee for its approval a list of students who are eligible for
1298 certification under this Rule and certify to The Supreme Court that such students meet the
1299 requirements of this Rule. Upon written approval by The Supreme Court of Tennessee of such
1300 students so selected and certified, such approved students shall be and are thereby authorized to
1301 provide legal services and/or appear in any municipal, county or state court on behalf of any
1302 person or entity financially unable to afford counsel, the state of Tennessee, or any municipality
1303 or county in the State of Tennessee in a manner consistent with the requirements of this rule.

1304 (c) The Board shall approve a law school's clinical program and shall certify such approval to
1305 The Supreme Court of the State of Tennessee as a prerequisite for the approval of law students
1306 who are practicing under this Rule in a clinical setting. The criteria for approval shall be:

- 1307 (i) that the law school itself is approved under the foregoing sections of this Rule;
- 1308 (ii) that if the law school has an in-house legal clinic which directly represents clients,
1309 that the program has a full-time faculty member as director, who is an attorney
1310 licensed to practice law in Tennessee; and
- 1311 (iii) that the law school clinical program is otherwise operated in a manner consistent
1312 with the requirements of this rule.

1313 Certification of approval of such law school clinical program may be withdrawn by the Board if
1314 the same ceases to meet this criterion.

1315 (d) In the case of students working in a legal aid office, a Public Defender's Office, District
1316 Attorney's office, the office of the Attorney General of Tennessee, the office of the general
1317 counsel of any state agency, or the office of a municipal or county legal director, it shall be the
1318 responsibility of the director of clinical education or the dean of the law school to transmit to the
1319 legal aid office, Public Defender's Office, District Attorney's office, office of the Attorney
1320 General of Tennessee, office of the general counsel of any state agency, or the office of the
1321 municipal or county legal director the names of the students who are certified under this Rule.

1322 (e) The written approval of such students by The Supreme Court of Tennessee shall be and
1323 remain in force and effect until the student graduates from law school or ceases to be enrolled in
1324 the law school.

1325

1326 **Explanatory Comments.**

1327 (1) The purpose of this Rule is educational; consequently, its focus is on providing opportunities
1328 for students to further their legal studies through properly supervised experiential education.
1329 Interpretation of this Rule should be in accordance with its educational goal.

1330 (2) The term "approved law school" refers to any law school in the state of Tennessee that has

1331 been accredited by the ABA or any law school in the state of Tennessee approved under Rule 7 §
1332 2.03 of this Court.

1333 (3) In order to provide consistency between three and four year law school programs, the Rule
1334 allows for certification of a student who has completed at least half of his or her law school
1335 studies. At a four year law school, a student is eligible for certification under this Rule after
1336 successful completion of two years of law school, while at a three year law school, a student is
1337 eligible after successful completion of three semesters.

1338 (4) The term “provide legal services” is to be construed broadly, so as to allow a law student who
1339 is admitted under this Rule to provide any and all services that could be provided by a licensed
1340 attorney. Students admitted under this Rule may also appear in capacities such as guardian ad
1341 litem where the person whose interests are represented would qualify for appointed counsel.

1342 (5) Students shall be personally and directly supervised by a clinical faculty member or legal aid
1343 lawyer, public defender, district attorney, assistant Attorney General, staff attorney for a state
1344 agency or staff attorney at a metropolitan legal office when appearing in court or tribunal;
1345 however, it is not necessary that the licensed attorney be personally present when the student
1346 engages in other activities such as interviewing, investigation and negotiation. It is, however, the
1347 responsibility of the licensed attorney to ensure that the student is properly supervised and
1348 instructed, including compliance with Rule of Professional Conduct 5.3.

1349 (6) “Person or entity financially unable to afford counsel” includes all persons who would be
1350 termed “indigent” by a legal aid provider, all persons whom any court deems eligible for the
1351 appointment of counsel, as well as persons and organizations who have unsuccessfully attempted
1352 to secure legal counsel or who can otherwise demonstrate to the satisfaction of the clinic director
1353 that they cannot reasonably afford counsel . The term also encompasses any organization which
1354 is composed of a majority of persons who meet the federal definition of “indigency” as well as
1355 any not-for profit organization the purpose of which is to assist “indigent” persons.

1356 (7) When the dean or director of clinical education certifies to the court that a student has met the
1357 conditions for admission under this Rule, the dean or director is certifying that the student is in
1358 good standing and has successfully completed sufficient credit hours to satisfy the minimum
1359 requirements for the second half of law school. A student will be deemed to have successfully
1360 completed the requisite amount of credits when he or she has been deemed to have passed (rather
1361 than simply have completed) sufficient courses.

1362 (8) A law school clinical program includes a live-client clinic within the law school, an
1363 externship program operated by the law school - regardless whether it is a part of the legal clinic-
1364 or any other law school credit-bearing activity that involves the representation of clients.

1365 (9) A student may be certified under this Rule and represent clients under the provisions of this
1366 Rule when working at a legal aid office, district attorney’s office, public defender’s office, office
1367 of the Attorney General of Tennessee, office of the general counsel of any state agency or the
1368 office of the director of a municipal or county law department whether or not the student is
1369 receiving law school credit for that work. It is the responsibility of the dean or clinic director at
1370 the school at which the student is enrolled to ensure that the supervision provided by the legal aid
1371 office, public defender, district attorney, Attorney General, general counsel of a state agency or
1372 Metropolitan Legal office is adequate under the Rule.

1373 (10) The terms director of a municipal or county law office or director of a municipal or county
1374 law department presume an office within the county or municipality which represents the county
1375 or municipality. For such an office to be recognized under this Rule, there must be at least one
1376 attorney in that office whose full-time employment is as the attorney for the municipality or
1377 county.

1378 [Amended by order filed June 5, 2006.]

1379 **Explanatory Comment [2008].**

1380 Subsection 10.03(a) is amended so that, to be eligible to provide legal services under this section,
1381 a law student is no longer required to attend a law school located in the state of Tennessee.
1382 Rather the amendment extends the provisions of this section to students enrolled in any law
1383 school from which a graduate would be eligible to take the Tennessee Bar Examination.

1384 ~~**Sec. 10.04. Law School Graduates.** Any Tennessee resident who shall have graduated from a
1385 law school accredited by the American Bar Association or approved by the Tennessee Board of
1386 Law Examiners, as provided in this Rule, and who establishes preliminary eligibility to take the
1387 examination given by the Board, shall be permitted to engage in practice on a limited and
1388 conditional basis. To obtain preliminary eligibility the applicant must submit a written request to
1389 the Board, which shall include a Notice of Intent and application to take the bar examination in
1390 Tennessee and written verification from an appropriate supervisor undertaking the duties to
1391 supervise the applicant under these provisions. The limited and conditional practice of the
1392 applicant shall comply with the following guidelines:~~

1393 ~~(a) Office Practice. Such person may:~~

1394 ~~(i) Engage in legal research, without limitation;~~

1395 ~~(ii) Prepare memoranda of law for regularly admitted practicing lawyers, without limitation;~~

1396 ~~(iii) Prepare legal memoranda and briefs for submission to any court, under the immediate
1397 supervision of any member of the bar; and~~

1398 ~~(iv) Assist any member of the bar in any area in office practice.~~

1399 ~~Such person may not:~~

1400 ~~(i) Advise clients, except in the personal presence and under the supervision of a member of the
1401 bar; and~~

1402 ~~(ii) Make any direct charge, or receive any compensation for such person's services, provided,
1403 however, any member of the bar with whom the person is associated may make an appropriate
1404 charge for the time so expended. Under no circumstances shall such compensation be divided,
1405 nor shall it be considered in establishing a rate of compensation for such person.~~

1406 ~~(b) Court Appearances. Such person may:~~

1407 ~~(i) Practice in any court which is not a court of record, without supervision, with the permission~~
1408 ~~of the judge thereof, but not in any case wherein there is a constitutional or statutory right to~~
1409 ~~counsel;~~

1410 ~~(ii) Present argument in any court, on any motion or matter addressing itself to the consideration~~
1411 ~~of the trial judge only, without supervision but subject to the permission of the trial judge; and~~

1412 ~~(iii) In the presence of, in association with, and under the supervision of a member of the bar, the~~
1413 ~~person may engage generally in any trial or proceeding before any trial court, governing body, or~~
1414 ~~administrative agency, but subject to the consent of the client.~~

1415 Such person may not:

1416 ~~(i) Appear without the immediate supervision of a member of the bar in any governing body or~~
1417 ~~administrative agency; and~~

1418 ~~(ii) Make any direct charge, or receive any compensation for such person's services, provided,~~
1419 ~~however, any member of the bar with whom the person is associated, may make an appropriate~~
1420 ~~charge for the time so expended. Under no circumstances shall such compensation be divided~~
1421 ~~nor shall it be considered in establishing a rate of compensation.~~

1422 ~~Trial judges shall in all cases insure that this Rule be construed and applied in such a manner as~~
1423 ~~to give strict protection to the constitutional right to the effective representation of counsel.~~

1424 ~~The right to engage in limited and supervised practice, as herein defined and delineated shall~~
1425 ~~begin on the date of notification of preliminary eligibility upon application to take the bar~~
1426 ~~examination and shall continue until a determination by the Tennessee Board of Law Examiners~~
1427 ~~of ineligibility to take the bar examination or through the day and date of the announcement of~~
1428 ~~the results of the second bar examination conducted after graduation of the applicant, whichever~~
1429 ~~shall first occur.~~

1430 ~~Any person who otherwise meets all qualifications contemplated in this Rule, but who is unable~~
1431 ~~to make a tentative connection or association with a practicing lawyer or law firm may make~~
1432 ~~application to any trial judge holding court in the county of such person's residence, or wherein~~
1433 ~~the person intends to practice, for aid in the establishment of a limited and supervised practice~~
1434 ~~under this Rule. Trial judges are admonished that such practice must accord strictly with the~~
1435 ~~foregoing provisions of the Rule. No deviation will be permitted.~~

1436 ~~It is the intent of this Rule to recognize that there is a hiatus between graduation and successful~~
1437 ~~completion of the bar, during which the potential lawyer's education, training and experience are~~
1438 ~~unnecessarily disrupted. The Court is advised that the overwhelming majority of law school~~
1439 ~~graduates successfully complete the bar within 10 months after their graduation. It is the intent~~
1440 ~~and purpose of this Rule to remove this impediment to a potential lawyer's continuing legal~~
1441 ~~education and simultaneously to safeguard and protect the public interest.~~

1442 [~~As amended by order filed September 11, 1984; by order filed April 15, 1999, effective May 1,~~
1443 ~~1999.~~]

1444 **Sec. 10.04 Practice before Admission by Examination.**

1445 **(a) Eligibility.**

1446 (i) An applicant may register with the Board in order to perform the services described in
1447 paragraph (c) of this Rule provided the applicant:

1448 (1) has never been licensed to practice law in in another state in the United States or U.S.
1449 Territories,

1450 (2) has submitted an application pursuant to Section 3.03 of this Rule,

1451 (3) meets the educational requirements of Section 2.01 of this Rule,

1452 (4) is working in Tennessee under the supervision of a licensed Tennessee attorney, and

1453 (5) has:

1454 (A) not yet had an opportunity to take the Tennessee bar examination;

1455 (B) taken the examination but not yet received notification of the results of the
1456 examination; or

1457 (C) taken the examination, but has not yet been admitted as a member of the
1458 Tennessee bar.

1459 (ii) Applicants licensed in another jurisdiction. An applicant who is licensed in another
1460 jurisdiction and seeking admission by examination pursuant to Article III or without
1461 examination pursuant to Article V of this Rule, may practice as provided in Section 5.01(g)
1462 of this Rule.

1463 (iii) An applicant is eligible for supervised practice beginning with the submission of the
1464 first Application to the Bar of Tennessee by examination. The privilege to engage in
1465 supervised practice expires on the date of the admissions ceremony for successful
1466 examination applicants, grade release for unsuccessful applicants, or issuance of an Order to
1467 Show Cause.

1468 (iv) Applicants who are unsuccessful on the examination may register for supervised
1469 practice upon submitting an application for the next available exam.

1470 (v) In no event shall the privilege to engage in supervised practice continue for more than
1471 sixteen (16) months from the date of an applicant's first Application for Admission. The
1472 Board shall have no discretion to extend the time an applicant may engage in limited
1473 practice.

1474 **(b) Registration Process.** In order to perform the services described in paragraph (c), the
1475 applicant must have submitted to the Board the NCBE application, completed the Tennessee
1476 Supplemental application process and paid the fees associated with the application. Additionally,

1477 the applicant must have registered for supervised practice according to the procedures
1478 established by the Board and paid the required fee. The Applicant must include with the
1479 registration an affidavit from an attorney licensed and in good standing in Tennessee stating that
1480 the attorney agrees to undertake the supervision of the applicant in accordance with this Rule.

1481 (c) **Services Permitted.** Under the supervision of a member of the bar of this State, and with
1482 the written consent of the person on whose behalf the applicant is acting, an applicant approved
1483 for supervised practice may render the following services:

1484 (i) Applicant may counsel and advise clients, negotiate in the settlement of claims, represent
1485 clients in mediation and other non-litigation matters, and engage in the preparation and
1486 drafting of legal instruments. Any communication other than internal communications may
1487 be signed by the Applicant with the accompanying designation "Tennessee Bar Applicant"
1488 but must also be signed by the supervising member of the bar.

1489 (ii) Applicant may appear in the trial courts, courts of review and administrative tribunals of
1490 this state, including court-annexed arbitration and mediation, subject to the following
1491 qualifications:

1492 1) Written consent to representation of the person on whose behalf the applicant is
1493 acting shall be filed in the case and brought to the attention of the judge or presiding
1494 officer.

1495 2) Appearances, pleadings, motions, and other documents to be filed with the court may
1496 be prepared by the applicant and may be signed with the accompanying designation
1497 "Tennessee Bar Applicant."

1498 3) In criminal cases, in which the penalty may be imprisonment, in proceedings
1499 challenging sentences of imprisonment, and in civil or criminal contempt proceedings,
1500 the applicant may participate in pretrial, trial, and post-trial proceedings as an assistant of
1501 the supervising member of the bar, who shall be present and responsible for the conduct
1502 of the proceedings.

1503 4) In all other civil and criminal cases in the trial courts or administrative tribunals, the
1504 applicant may conduct all pretrial, trial, and post-trial proceedings with the supervising
1505 attorney present unless the applicant is permitted by the judge or presiding officer
1506 participate without direct supervision.

1507 5) In matters before appellate courts, the applicant may prepare briefs, excerpts from
1508 record, abstracts, and other documents. If any such filings set forth the name of the
1509 applicant as a counsel of record in addition to the supervising member of the bar, the
1510 name of the applicant must be accompanied by the designation "Tennessee Bar
1511 Applicant" but must be filed in the name of the supervising member of the bar. Upon
1512 motion by the supervising member of the bar, the applicant may request authorization to
1513 argue the matter before the appellate court but, even if the applicant is permitted to argue,
1514 the supervising member of the bar must be present and responsible for the conduct of the
1515 applicant at the hearing.

1516 (d) Compensation. An applicant rendering services authorized by this rule shall not request or
1517 accept any compensation from the person for whom applicant renders the services. The
1518 supervising attorney may make an appropriate charge. The applicant may be compensated as an
1519 employee of a firm, agency, clinic or other organization so long as the rate of such compensation
1520 is established independent of compensation paid for representation.

1521 (e) Any applicant who otherwise meets all the qualifications contemplated in this Rule, but who
1522 is unable to make a connection or association with a practicing attorney for purposes of serving
1523 as a supervising attorney as required by this Rule may make application to any trial judge
1524 holding court in the county of such applicant's residence for aid in the establishment of a
1525 supervised practice under this Rule. Trial judges are admonished that such practice must accord
1526 strictly with the provisions of this Rule. No deviation will be permitted.

1527
1528 *Section 10.04 was changed after the comment period to incorporate TBA suggestions adding*
1529 *a provision for practice before admission for applicants already licensed in another*
1530 *jurisdiction to Sec. 5.01(g). Subparagraph (ii) of 10.04(a) refers applicants who are already*
1531 *licensed to the provisions of 5.01(g). At the suggestion of the BPR, the term "bar cycle" was*
1532 *removed in 10.04(a)(v).*

1532 **Sec. 10.05. Conditional Admission.**

1533 An applicant whose previous conduct or behavior would or might result in a denial of admission
1534 may be conditionally admitted to the practice of law upon a showing of sufficient rehabilitation
1535 and/or mitigating circumstances. The Board of Law Examiners shall recommend relevant
1536 conditions relative to the conduct or the cause of such conduct with which the applicant must
1537 comply during the period of conditional admission.

1538 (a) **Conditions.** The Board of Law Examiners may recommend that an applicant's admission be
1539 conditioned on the applicant's complying with conditions that are designed to detect behavior
1540 that could render the applicant unfit to practice law and to protect the clients and the public, such
1541 as submitting to alcohol, drug, or mental health treatment; medical, psychological, or psychiatric
1542 care; participation in group therapy or support; random chemical screening; office practice or
1543 debt management counseling; and monitoring, supervision; mentoring or other conditions
1544 deemed appropriate by the Board of Law Examiners. The conditions shall be tailored to detect
1545 recurrence of the conduct or behavior which could render an applicant unfit to practice law or
1546 pose a risk to clients or the public and to encourage continued abstinence, treatment, or other
1547 support. The conditions should be established on the basis of clinical or other appropriate
1548 evaluations, take into consideration the recommendations of qualified professionals, when
1549 appropriate, and protect the privacy interests of the conditionally admitted lawyer to professional
1550 treatment records to the extent possible. The terms shall be set forth in a confidential order (the
1551 "Conditional Admission Order"). The Conditional Admission Order shall be made a part of the

1552 conditionally admitted lawyer's application file and shall remain confidential, except as provided
1553 in this and any other applicable rules. The Board shall issue the Temporary Certificate of
1554 Eligibility for Admission pursuant to Sec. 9.01 upon completion of the registration process after
1555 issuance of the Conditional Admission Order. The Board of Law Examiners shall have no
1556 further authority over the conditionally admitted lawyer once such lawyer obtains a license to
1557 practice law.

1558 **(b) Notification to the Board of Professional Responsibility.** Immediately upon issuance of a
1559 Conditional Admission Order, the Board of Law Examiners shall transmit a copy of the order to
1560 the Board of Professional Responsibility. If the Board of Professional Responsibility or any other
1561 jurisdiction's disciplinary authority receives a complaint alleging unprofessional conduct by the
1562 conditionally admitted lawyer, or if the Monitoring Authority designated pursuant to paragraph
1563 (d) notifies the Board of Professional Responsibility of substantial noncompliance with the
1564 Conditional Admission Order, the Board of Professional Responsibility shall request a copy of
1565 relevant portions of the lawyer's bar application file, and the Board of Law Examiners shall
1566 promptly provide the requested materials to the Board of Professional Responsibility.

1567 **(c) Length of Conditional Admission.** The conditional admission period shall be set in the
1568 Conditional Admission Order, but shall not exceed sixty (60) months, unless notification of
1569 substantial noncompliance with the Conditional Admission Order has been received by the
1570 Board of Professional Responsibility or a complaint of unprofessional conduct has been made
1571 against the conditionally admitted lawyer with the Board of Professional Responsibility or any
1572 other lawyer disciplinary authority.

1573 **(d) Compliance with Conditional Admission Order.** During the conditional admission period,
1574 the Monitoring Authority shall be the Tennessee Lawyers Assistance Program. The Tennessee
1575 Lawyers Assistance Program shall take such action as is necessary to monitor compliance with
1576 the terms of the Conditional Admission Order, including, but not limited to, requiring that the
1577 conditionally admitted lawyer submit written verification of compliance with the conditions,
1578 appear before the Tennessee Lawyers Assistance Program monitor, and provide information
1579 requested by the monitor or the Tennessee Lawyers Assistance Program.

1580 **(e) Costs of Conditional Admission.** The applicant shall be responsible for any direct costs of
1581 investigation, testing and monitoring. Other costs shall be borne in accord with this or any other
1582 applicable Supreme Court Rule.

1583 **(f) Failure to Fulfill the Terms of Conditional Admission.** Failure of a conditionally admitted
1584 lawyer to fulfill the terms of a Conditional Admission Order may result in a modification of the
1585 Order that may include extension of the period of conditional admission, suspension or
1586 revocation of the Conditional Admission Order or such other action as may be appropriate under
1587 Supreme Court Rule 9, including temporary suspension pursuant to Supreme Court Rule 9, §
1588 12.3. The Tennessee Lawyers Assistance Program shall promptly notify the Board of
1589 Professional Responsibility whenever it determines that the conditionally admitted lawyer is in
1590 substantial noncompliance with the terms of the Conditional Admission Order. Notification of

1591 such failure by the Tennessee Lawyers Assistance Program shall automatically extend the
1592 conditional admission until disposition of the matter by the Board of Professional Responsibility
1593 and any resulting appeals.

1594 **(g) Violation of Conditional Admission Order.** ~~If the Tennessee Lawyers Assistance Program~~
1595 ~~determines that the terms of the Conditional Admission Order have been violated, the Tennessee~~
1596 ~~Lawyers Assistance Program shall notify the Board of Professional Responsibility to initiate~~
1597 ~~proceedings to determine whether the conditional admission should be revoked, extended or~~
1598 ~~modified. Consideration and disposition of any such notice to the Board of Professional~~
1599 ~~Responsibility shall be governed by Supreme Court Rule 9. Any decision to extend or modify the~~
1600 ~~Conditional Admission Order must be made in consultation with the Tennessee Lawyers~~
1601 ~~Assistance Programs. The Board of Professional Responsibility shall initiate proceedings to~~
1602 ~~determine whether the conditional admission should be revoked, extended or modified by filing a~~
1603 ~~petition to review conditional admission. Consideration and disposition of any such petition shall~~
1604 ~~follow the procedure for formal proceedings as set forth in Tenn. Sup. Ct. R. 9; however, the~~
1605 ~~only issue to be determined is whether the conditional admission should be revoked, extended or~~
1606 ~~modified. Any decision to extend or modify the Conditional Admission Order must be made in~~
1607 ~~consultation with the Tennessee Lawyers Assistance Programs. If the conditionally admitted~~
1608 ~~attorney was temporarily suspended due to substantial noncompliance with a monitoring~~
1609 ~~agreement, any disposition of the petition to review conditional admission may include~~
1610 ~~dissolution of the temporary suspension.~~

1611 **(h) Expiration of Conditional Admission Order.** Unless the Conditional Admission Order is
1612 revoked or extended as provided herein, upon completion of the period of conditional admission,
1613 the conditions imposed by the Conditional Admission Order shall expire. The Tennessee
1614 Lawyers Assistance Program shall notify the Board of Professional Responsibility of such
1615 expiration.

1616 **(i) Confidentiality.** Except as otherwise provided herein, and unless The Supreme Court orders
1617 otherwise, the fact that an individual is conditionally admitted and the terms of the Conditional
1618 Admission Order shall be confidential provided that the applicant shall disclose the entry of any
1619 Conditional Admission Order to the admissions authority in any jurisdiction where the applicant
1620 applies for admission to practice law. In addition to ensuring that the relevant records of the
1621 Board of Law Examiners, the Board of Professional Responsibility and the Tennessee Lawyers
1622 Assistance Program are confidential, the Board of Law Examiners shall use reasonable efforts to
1623 structure the terms and conditions of the conditional admission so that the conditional admission
1624 does not pose a significant risk to confidentiality. These provisions for confidentiality shall not
1625 prohibit or restrict the ability of the applicant to disclose to third parties that the applicant has
1626 been conditionally admitted under this Rule, nor prohibit requiring third-party verification of
1627 compliance with the terms of the Conditional Admission Order by admission authorities in
1628 jurisdictions to which the conditionally admitted lawyer may subsequently apply.

1629 (j) **Education.** The Board of Law Examiners shall make information about its conditional
1630 admission process publicly available and shall reasonably cooperate with the Tennessee Lawyers
1631 Assistance Program in its efforts to educate law students, law school administrators and
1632 applicants for bar admission regarding the nature and extent of chemical abuse, dependency, and
1633 mental health concerns that affect law students and lawyers.

1634 (k) **Disciplinary Complaints.** The provisions of this rule shall not affect the authority of the
1635 Board of Professional Responsibility, pursuant to Tenn. Sup. Ct. R. 9, to investigate a complaint
1636 filed against a conditionally admitted lawyer by a person or entity other than the Tennessee
1637 Lawyers Assistance Program, to recommend a disposition of such complaint pursuant to Tenn.
1638 Sup. Ct. R. 9, 8.1, or to initiate a formal disciplinary proceeding as to such complaint, pursuant to
1639 Tenn. Sup. Ct. R. 9, 8 8.2.

1640 [Section 10.05 amended by Order filed September 3, 2009]

1641 **Sec. 10.06. Temporary License of Spouse of a Military Servicemember**

1642 (a) **Qualifications.** An applicant who meets all of the following requirements listed in (i)
1643 through (xii) below may be temporarily licensed and admitted to the practice of law in
1644 Tennessee, upon approval of the Board. Applicant:

1645 (i) is the spouse of an active duty servicemember of the United States Uniformed Services as
1646 defined by the Department of Defense and that servicemember is on military orders stationed
1647 in the State of Tennessee or Fort Campbell, Kentucky;

1648 (ii) has been licensed and admitted by examination to practice law before the court of last
1649 resort in at least one other jurisdiction of the United States;

1650 (iii) meets the educational requirements of Section 2.01 and 2.02 of this Rule;

1651 (iv) has achieved a passing score on the Multistate Professional Responsibility Examination
1652 as it is established in Tennessee at the time of application;

1653 (v) is currently an active member in good standing in every jurisdiction to which the
1654 applicant has been admitted to practice, or has resigned or been administratively revoked
1655 while in good standing from every jurisdiction without any pending disciplinary actions;

1656 (vi) is not currently subject to lawyer discipline in any other jurisdiction;

1657 (vii) possesses the moral character and fitness required of all applicants for admission and
1658 licensing in this State;

1659 (viii) is physically residing in Tennessee or Fort Campbell, Kentucky, due to the
1660 servicemember's military orders;

1661 (ix) has completed fifteen (15) hours of instruction approved by the Tennessee Continuing
1662 Legal Education Board on Tennessee substantive and/or procedural law, including three (3)
1663 hours of ethics, within the six-month period immediately preceding or following the filing of
1664 the applicant's application;

- 1665 (x) has never failed the Tennessee bar examination;
1666 (xi) certifies that he or she has read and is familiar with the Tennessee Rules of Professional
1667 Conduct; and
1668 (xii) has paid such fees as may be set by the Board.
- 1669 (b) **Application Requirements.** Any applicant seeking a temporary license under this Section to
1670 practice law in Tennessee shall:
- 1671 (i) file an application for Temporary License for Servicemember's Spouse and an
1672 application for character investigation, including all required supporting documents, in the
1673 manner established by the Board;
- 1674 (ii) submit a copy of the applicant's Military Spouse Dependent Identification and
1675 documentation evidencing a spousal relationship with the servicemember;
- 1676 (iii) provide a copy of the servicemember's military orders to a military installation in
1677 Tennessee or Fort Campbell, Kentucky, or a letter from the servicemember's command
1678 verifying that the requirement in Paragraph (a)(vii) of this Section is met;
- 1679 (iv) submit Certificate(s) of Good Standing from the highest court of each state to which
1680 applicant has been admitted and Disciplinary History(ies) to demonstrate satisfaction of the
1681 requirements of Paragraph (a)(iv) of this Section;
- 1682 (v) associate Local Counsel as set forth in Paragraph (c) of this Section, below;
- 1683 (vi) certify compliance with the Continuing Legal Education requirement in Paragraph
1684 (a)(ix) of this Section; and
- 1685 (vii) pay the fee established pursuant to Section 11.01 of this Rule.
- 1686 (c) **Supervision of Local Counsel.** A person applying for a Temporary License under this Rule
1687 may engage in the practice of law in this jurisdiction only under the supervision and direction
1688 of Local Counsel.
- 1689 (i) As used in this Rule, Local Counsel means an active member in good standing of the
1690 Tennessee Bar, whose office is located in Tennessee.
- 1691 (ii) Local Counsel must provide to the Board his or her Tennessee Bar number, physical
1692 office address, mailing address, email address, telephone number, and written consent to
1693 serve as Local Counsel, on the form provided by the Board of Bar Examiners.
- 1694 (iii) Unless specifically excused from attendance by the trial judge, Local Counsel shall
1695 personally appear with the temporarily admitted attorney on all matters before the court.
- 1696 (iv) Local Counsel will be responsible to the courts, the Board of Professional
1697 Responsibility, The Supreme Court of Tennessee, and the client for all services provided by
1698 the temporarily admitted attorney pursuant to this Rule.

1699 (v) Local Counsel is obligated to notify the Executive Director of the Board and the Board
1700 of Professional Responsibility when the supervising relationship between the attorney
1701 holding the Temporary License and Local Counsel is terminated.

1702 **(d) Issuance, Renewal and Subsequent Application.**

1703 (i) Issuance. Upon approval and certification by the Board, the applicant for temporary
1704 license shall, upon registration and payment of applicable dues and taking the oath of
1705 admission as set forth in Sections 9.01 and 9.02 of this Rule, become a member of the
1706 Tennessee Bar. An attorney temporarily licensed pursuant to this Rule shall be subject to the
1707 same membership obligations, including payment of dues and continuing legal education
1708 requirements, as other active members of the Tennessee Bar, and all legal services provided
1709 in Tennessee by a lawyer licensed and admitted pursuant to this Rule shall be deemed the
1710 practice of law and shall subject the attorney to all rules governing the practice of law in
1711 Tennessee, including the Tennessee Rules of Professional Conduct. The original term of the
1712 license is one year.

1713 (ii) Duration and Renewal.

1714 1) Persons who hold a temporary license under this provision may apply for a one year
1715 extension to their license upon filing of an application for extension with the Board. The
1716 application for extension must include sworn verification that the temporarily licensed
1717 attorney continues to meet all of the qualifications for temporary license as set forth in
1718 Paragraphs (a), (b) and (c) of this Section, and include the required fee for the
1719 application. Requests for extension must be submitted to the Board at least one month
1720 prior to the expiration of the temporary license. Requests for extension must be
1721 approved by the Board and The Supreme Court to be effective.

1722 2) When the active duty servicemember is assigned to an unaccompanied or remote
1723 follow-on assignment and the temporarily licensed attorney continues to physically
1724 reside in Tennessee, the temporary license may be renewed until that unaccompanied or
1725 remote assignment ends, provided that the attorney complies with the other requirements
1726 for renewal.

1727 3) Subsequent Applications. A temporarily licensed attorney who wishes to become a
1728 permanent member of the Bar of Tennessee may apply for admission under Article III
1729 (by examination) or Article V (without examination) of this Rule for the standard
1730 application fee minus the application fee paid to the Board for the application for
1731 temporary license, not including any fees for requests for extension or background
1732 investigation fees. The requirement for a background investigation will be waived if the
1733 application for admission is submitted within two years of the original Application for
1734 Temporary License.

1735 **(e) Termination.**

1736 (i) Event of Termination. An attorney's temporary license to practice law pursuant to this

1737 Rule shall immediately terminate and the attorney shall immediately cease all activities under
1738 this Rule upon the occurrence of any of the following:

- 1739 1) the spouse's discharge, separation or retirement from active duty in the United States
1740 Uniformed Services, or the spouse's no longer being on military orders stationed in the
1741 State of Tennessee or Fort Campbell, Kentucky, except as provided in Paragraph (d)(2)(ii)
1742 of this Section;
- 1743 2) failure of the temporary attorney to meet any licensing requirements applicable to all
1744 active attorneys possessing a license to practice law in this state, including failure to submit
1745 a timely application to renew the temporary license;
- 1746 3) the absence of supervision by Local Counsel;
- 1747 4) the attorney no longer physically residing within the State of Tennessee or at Fort
1748 Campbell, Kentucky;
- 1749 5) the request of the temporary attorney;
- 1750 6) the issuance to the temporary attorney of a Tennessee license under Article III (by
1751 examination) or Article V (without examination) of this Rule;
- 1752 7) the temporarily licensed attorney receiving a failing score on the Tennessee bar
1753 examination; or
- 1754 8) the suspension, disbarment or other action affecting the temporarily licensed attorney's
1755 good standing with the bar of Tennessee or any other jurisdiction in the United States in
1756 which the temporarily licensed attorney is licensed.

1757 (ii) Notices Required.

- 1758 1) An attorney temporarily licensed under this Rule shall provide written notice to this
1759 Board and the Board of Professional Responsibility of any Event of Termination within
1760 thirty (30) days of the occurrence thereof;
- 1761 2) Within thirty (30) days of the occurrence of any Event of Termination, the temporarily
1762 licensed attorney shall:
- 1763 (a) provide written notice to all his or her clients that he or she can no longer represent
1764 such clients and furnish proof to this Board and the Board of Professional Responsibility
1765 within forty-five (45) days of such notification; and
- 1766 (b) file in each matter pending before any court or tribunal in this State a notice that the
1767 attorney will no longer be involved in the matter, which shall include the substitution of
1768 the Local Counsel, or such other attorney licensed to practice law in Tennessee selected
1769 by the client, as counsel in the place of the temporarily licensed attorney.

1770 *If the Court wishes to implement a military spouse provision, the Board suggests new Section 10.06, above, which*
1771 *includes an ABA education requirement, a background investigation, supervision by a TN attorney, and 15 hours*
1772 *of CLE prior to issuance of the temporary license. The proposed section relies on suggestions from the TBA and*
comments submitted by Mark Rassas, a long-serving member of the District Investigating Committee in
Montgomery County. Mr. Rassas suggested that the Board and Supreme Court look at the Rule for licensing
military spouses recently adopted in Kentucky, which has been relied on heavily in the drafting of this provision.

1773

1774 **ARTICLE XI. FEES**

1775 **Sec. 11.01. Schedule of Fees.**

1776 The Board shall adopt, from time to time, a schedule of fees to be paid by applicants. No fee
1777 shall be charged without the approval of The Supreme Court.

1778 **Sec. 11.02. Payment Mandatory.**

1779 No step in the admissions process may be taken except upon the payment of the fees required for
1780 that step. No license will be issued until all fees due from the applicant have been paid.

1781 **Sec. 11.03. Refunds.**

1782 Fees are non-transferable and non-refundable, except that ½ the fee for examination or re-
1783 examination, not including any other fee, may be refunded if applicant withdraws from the exam
1784 by February 15 for the February examination and July 15 for the July examination.

1785 **ARTICLE XII. ORGANIZATION AND POWERS OF BOARD**

1786 **Sec. 12.01. Composition of Board and Term.**

1787 The Board shall consist of five attorneys licensed to practice law in this State and in good
1788 standing. The Board members shall be appointed to three-year terms by The Supreme Court. No
1789 member who has served three successive three-year terms shall be eligible for reappointment to
1790 the Board until three years after the termination of the most recent term.

1791 [Amended by order filed November 15, 2013]

1792 **Sec. 12.02. Officers and Allocation of Responsibilities.**

1793 The officers of the Board shall consist of a President, a Vice President and a Secretary-Treasurer.
1794 The Board may, however, allocate responsibilities not requiring formal action, as it deems
1795 appropriate, on an informal basis.

1796 **Sec. 12.03. Official Seal.**

1797 The Board shall use a seal of office containing the following words: "STATE OF TENNESSEE
1798 BOARD OF LAW EXAMINERS."

1799 **Sec. 12.04. Formal Actions; Quorum.**

1800 (a) Denial of an application to take the examination, or denial of a license, or the adoption of
1801 Board policies and rules shall be taken only on formal action concurred in by at least three
1802 members of the Board, expressed in an order.

1803 (b) Three (3) members of the Board shall constitute a quorum.

1804 (c) Preliminary approval to take the examination may be given and any other informal action
1805 may be taken by any member of the Board.

1806 [Amended by order filed March 14, 2002.]

1807 **Sec. 12.05. ~~Rules and Statements of Policy and Procedure of the Board.~~**

1808 (a) The Board shall have the power to adopt such ~~rules and such~~ statements of policy and
1809 procedure as it may deem necessary or expedient, not inconsistent with the rules of The Supreme
1810 Court. Upon adoption by the Board, the Executive Director shall provide a copy of the policy or
1811 procedure to the Court for approval.

1812 (b) All such ~~rules and~~ statements of policy and procedure shall be ~~kept in an official minute rule~~
1813 ~~and policy book~~ maintained by the ~~Administrator~~ Executive Director as the Board's Statement of
1814 Policy and Procedure ~~Copies of such rules and statements of policy shall be filed with the Court~~
1815 ~~on their adoption for approval by the Court.~~ The ~~minute rules and policy book~~ policies and
1816 procedures and shall be open to public inspection. ~~and~~ ~~The Board shall take reasonably~~
1817 appropriate steps to assure that applicants are given the opportunity to become familiar with the
1818 ~~rules and policies of the Board~~ Board's Statement of Policy and Procedure, as well as with this
1819 Rule.

1820 *The Board recommended change in addition to the original revision to distinguish the Policies*
1821 *and Procedures of the Board from the minutes that are considered confidential pursuant to*
1822 *Section 12.11. The provision has been modified to require Court approval of the Policies and*
1823 *Procedures as part of the Court's oversight function. Board Policies and Procedures are*
maintained on the TBLE website.

1824 **Sec. 12.06. Docket of Proceedings.**

1825 The ~~Administrator~~ Executive Director shall maintain a docket of all proceedings before the
1826 Board in which formal action of the Board is taken, or a hearing is held with respect to any
1827 application for admission.

1828 **Sec. 12.07. Appointment and Duties of ~~Administrator~~ Executive Director**

1829 The Supreme Court shall appoint an ~~Administrator~~ Executive Director of the Board, who shall
1830 serve at the pleasure of the Court. Following his or her appointment by the Court, the
1831 ~~Administrator~~ Executive Director shall report to the Board, which shall conduct regular
1832 performance evaluations of the ~~Administrator~~ Executive Director and report such evaluations to
1833 the Court. The ~~Administrator~~ Executive Director shall be responsible for all administrative duties
1834 in the enforcement of this Rule, including, but not limited to, investigation of the character of
1835 applicants, investigation of schools, preliminary review of applications, making arrangements for
1836 the giving of examinations, keeping books, records and files, and such other responsibilities as
1837 may be delegated or directed by the Board.

1838 **Sec. 12.08. Secretarial Assistance.**

1839 The ~~Administrator~~ Executive Director may employ such full or part-time secretarial and other
1840 office assistance as he or she may deem appropriate.

1841 **Sec. 12.09. Assistants to the Board.**

1842 The Supreme Court may appoint attorneys licensed to practice law in this State and in good
1843 standing to assist in the preparation and grading of examination questions, and to perform such
1844 other duties in the enforcement of this Rule as the Board may from time to time direct. The
1845 assistants shall serve staggered terms of five (5) years, and may be reappointed to serve a second
1846 five-year term, provided that shorter terms may be designated initially by the Court where
1847 necessary to observe the above rotation practices.

1848 **Sec. 12.10. Salaries.**

1849 Subject to budgetary limitations, the Board shall fix the salary of the ~~Administrator~~ Executive
1850 Director, of attorney assistants and employees of the Board.

1851 **Sec. 12.11. Confidentiality of Board Records and Files.**

1852 Applications for admission, examination papers and grades, and all investigative records of the
1853 Board, including but not limited to, correspondence and/or electronic transmissions to and from
1854 the Board, its members and staff, minutes of Board meetings and its deliberations and all
1855 documents, communications and proceedings prepared in connection with evaluations or
1856 investigations of law schools under Rule 7, §§ 2.03, 2.07, 2.08, 2.09, 2.10, 2.11, 2.12, and 2.15,
1857 whether in paper or electronic form, shall be treated as confidential and shall not be open to
1858 inspection by members of the public without written application to and authorization by an
1859 appropriate order of The Supreme Court. Statistical information not identified with any particular
1860 applicant and information relating to whether and when an applicant has been admitted may be
1861 released to any person. The Board is authorized to release information which would otherwise be
1862 confidential to the licensing, disciplinary or law enforcement agencies of any jurisdiction, the
1863 Tennessee Lawyers Assistance Program, the Board of Professional Responsibility, and to the
1864 National Conference of Bar Examiners. Notwithstanding the provisions above, completion of an
1865 Application to the Bar of Tennessee constitutes Applicant's permission allowing the Board to release
1866 Applicant's name, address and email address to Bar and professional legal associations in Tennessee, as
1867 approved by the Board, and, for applications for admission by examination, Applicant's name and exam
1868 result to the law school from which Applicant graduated.

1869 [Amended by order filed December 15, 2000, effective January 13, 2001, and by order filed
1870 August 31, 2004.]

1871 **Sec. 12.12. No Power to Waive or Modify Rule of The Supreme Court.**

1872 Except as expressly provided in this Rule, the Board has no power to waive or modify any
1873 provision of this Rule.

1874 **Sec. 12.13. Subpoena Power.**

1875 The Board and each member thereof are vested with the power to issue subpoenas for witnesses,
1876 to compel their attendance, and to compel the production of books, records and documents, to
1877 administer oaths to witnesses and to compel witnesses to give testimony under oath, and to have
1878 and exercise all other power and authority conferred by the laws of this State and the rules of The
1879 Supreme Court upon Commissioners or upon Special Masters of this Court. Said subpoenas shall
1880 in each instance be attested by one of the Clerks of this Court. Subpoenas shall be issued and
1881 enforced in accordance with the provisions of Title 24, Tenn. Code Ann., as in the case of
1882 Commissioners authorized to take depositions.

1883 **Sec. 12.14. Counsel for Board.**

1884 (a) The Board is authorized to request any of the attorney assistants to the Board to act as
1885 counsel, or to request the State or any local bar association to furnish counsel, to assist the Board
1886 in investigations, preparation for hearings, or the conduct of hearings.

1887 (b) The Attorney General shall represent the Board in any proceedings in court, including the
1888 review of Board actions in The Supreme Court.

1889 **Sec. 12.15. Immunity**

1890 (a) ~~The Board of Law Examiners, and its members, employees, and agents are~~ Members of the
1891 Board, district committee members, the Executive Director, Assistants and employees of the
1892 Board shall be immune from all civil liability for damages for conduct and communications
1893 occurring in the performance of and within the scope of their official duties relating to the
1894 examination, character, and fitness qualification, and licensing of persons seeking to be admitted
1895 to the practice of law from civil suit in the course of their official duties.

1896 (b) Records, statements of opinion, and other information regarding an applicant for admission to
1897 the bar communicated by any entity, including any person, firm or institution, without malice, to
1898 the Board of Law Examiners, or to its members, employees or agents, are privileged, and civil
1899 suits for damages predicated thereon may not be instituted.

1900 (c) The immunity granted in this Section shall not be construed to limit any other form of
1901 immunity available to any covered person.

1902 [Adopted by order filed April 15, 1999, effective May 1, 1999.]

1903 **ARTICLE XIII. FORMAL PROCEEDINGS BEFORE THE BOARD**

1904 **Sec. 13.01. Show Cause Orders.**

1905 If the Board finds, from the information furnished it or from investigations made under its
1906 authority, that grounds for doubt exist as to whether an applicant meets the criteria and standards
1907 provided in this Rule, the Board shall issue an order requiring the applicant to show cause why
1908 the applicant should not be denied admission or the opportunity to take the examination as the

1909 Board may determine. Any such show cause order shall state the grounds thereof, and shall
1910 afford the applicant an opportunity to reply thereto within a period designated therein. Any such
1911 reply shall be in writing, under oath, and may include such additional affidavits or other
1912 documents as the applicant may choose to furnish. If the Board determines that any such reply is
1913 not sufficient, the Board shall notify the applicant and afford him or her the opportunity to be
1914 heard in accordance with the procedures provided in this Rule. The Board or the ~~Administrator~~
1915 Executive Director, however, may contact the applicant in order to secure an informal resolution
1916 of the matter before resorting to the formal procedures herein provided, but no such informal
1917 disposition shall be made without the consent of the applicant.

1918 **Sec. 13.02. Petitions to Board.**

1919 (a) Any person who is aggrieved by any action of the Board involving or arising from the
1920 enforcement of this Rule (other than failure to pass the bar examination) may petition the Board
1921 for such relief as is within the jurisdiction of the Board to grant.

1922 (b) Any such petition must:

1923 (i) Be in writing, under oath;

1924 (ii) Be filed with the Administrator within 30 days after notice of such action by the
1925 board; and

1926 (iii) Must state with reasonable particularity the relief which is sought and the
1927 grounds therefor.

1928 (c) Any such petition may:

1929 (i) Be accompanied by such affidavits and other documentary evidence as the
1930 petitioner may deem appropriate;

1931 (ii) May be supported by a ~~brief~~ Memorandum of Law setting forth pertinent
1932 authorities and arguments; and

1933 (iii) May ask the Board to set the matter for hearing.

1934 (d) The Board may order a hearing of any such petition on its own motion.

1935 **Sec. 13.03. Hearings Before the Board.**

1936 (a) The Administrator shall serve notice on the petitioner or the respondent to a show cause order
1937 and any other interested parties fixing the time and place of the hearing and indicating the
1938 matters to be heard.

1939 (b) The petitioner or respondent and any other person made a party to the proceeding shall have
1940 the right to be represented by counsel and to present evidence and argument with respect to the
1941 matters in issue.

- 1942 (c) The burden of proof shall be upon the petitioner, or the respondent in the case of a show
1943 cause order.
- 1944 (d) Any person having a direct interest in the matters in issue in any proceeding may, upon
1945 written motion, be allowed to intervene and become a party of record.
- 1946 (e) The Board shall not be bound by the rules of evidence applicable in a court, but it may admit
1947 and give probative effect to any evidence which in the judgment of the Board possesses such
1948 probative value as would entitle it to be accepted by reasonably prudent persons in the conduct of
1949 their affairs. The Board, however, shall give effect to the rules of privilege recognized by law.
1950 The Board may exclude incompetent, irrelevant, immaterial and unduly repetitious evidence.
- 1951 (f) All evidence, including records and documents in the possession of the Board of which it
1952 desires to avail itself, shall be offered and made a part of the record, and no factual information
1953 shall be considered by the Board which is not made part of the record.
- 1954 (g) Documentary evidence may be received in the form of copies or excerpts, or by incorporation
1955 by reference.
- 1956 (h) The Board may take notice of judicially cognizable facts, and, in addition, may take notice of
1957 general or technical facts within its specialized knowledge.
- 1958 (i) The Board may cause subpoenas to be issued for such witnesses as any party may in good
1959 faith and for good cause shown request in writing.
- 1960 (j) The Administrator shall arrange for the presence of a court reporter to transcribe any oral
1961 hearing. The per diem charge of such reporter shall be paid by the party requesting the hearing,
1962 or, in the case of a show cause order, by the Board. In its discretion, the Board may waive the
1963 presence of a reporter and use an electronic or similar recording device. At the direction of the
1964 Board, or at the request of any party, a transcription of the hearing shall be made, and shall be
1965 incorporated in the record, if made. The party requesting the transcription shall bear the cost
1966 thereof. If the Board elects to transcribe the proceedings, any party shall be provided copies
1967 thereof upon payment to the Board of a reasonable compensatory charge.
- 1968 (k) At the direction of the Board and by agreement of the parties, all or part of a hearing may be
1969 conducted by telephone, ~~television,~~ or other electronic means, if each party has an opportunity to
1970 participate in, to hear, and, if technically feasible, to see the entire proceeding while it is taking
1971 place.
- 1972 (l) Any member of the Board may hold hearings when authorized by the Board to do so, but any
1973 decision shall be made by a majority of the Board. Any member participating in the decision
1974 without being present shall read the transcript of the proceedings and the entire record before the
1975 Board.
- 1976

1977 **Sec. 13.04. Default.**

1978 (a) If a party fails to respond to a show cause order, the Board may hold that party in default,
1979 serve a notice of default on that party, and after the period stated in that notice, enter an order
1980 taking such action as the Board deems appropriate.

1981 (b) If a party fails to appear at a hearing, the Board may hold that party in default, serve a notice
1982 of default on the party, and after the period stated in that notice, dismiss the petition, or, in the
1983 case of a hearing set by the Board on its own motion, enter an order taking such action as the
1984 Board deems appropriate.

1985 (c) When a party fails to respond to a show cause order, or fails to appear at a hearing, the Board
1986 may, at its election, proceed with the hearing in the absence of that party.

1987 (d) A party who has been held in default may file a petition for setting aside that default within
1988 15 days after the entry of an order based on that default, which petition shall state with
1989 particularity the grounds thereof.

1990 **Sec. 13.05. Costs.**

1991 The Board may require payment of or security for the costs and expenses of any hearing before
1992 the Board, in such a manner as it deems reasonably compensatory.

1993 **Sec. 13.06. Decisions of Board.**

1994 The Board's decision on any hearing before it shall be made in writing and a copy thereof shall
1995 be mailed or delivered to all parties of record.

1996 **Sec. 13.07. Informal Disposition.**

1997 Unless precluded by law or by this Rule, informal disposition may be had of any matter before
1998 the Board by stipulation, agreed settlement, or consent order.

1999 **Sec. 13.08. Motions and Other Matters Preliminary to Hearing.**

2000 (a) Any party who desires to raise any matter preliminary to the hearing or to obtain any order
2001 from the Board prior to the hearing shall do so by motion, which shall be made in writing, shall
2002 state with reasonable ~~particularity~~ particularity the grounds therefor, and shall set forth the relief
2003 or order sought.

2004 (b) Any member of the Board may dispose of any motion, subject to the right of review by the
2005 entire Board.

2006

2007 **ARTICLE XIV. REVIEW OF BOARD DECISIONS**

2008 **Sec. 14.01. Petition for Review.**

2009 Any person aggrieved by any action of the Board may petition The Supreme Court for a review
2010 thereof as under the common law writ of certiorari, unless otherwise expressly precluded from
2011 doing so under this Rule. A petition filed under this section shall be made under oath or on
2012 affirmation and shall state that it is the first application for the writ. *See* Tenn. Code Ann. §§ 27-
2013 8-104(a) and 27-8-106. On the grant of the writ, the Administrator shall certify and forward to
2014 the Court a complete record of the proceedings before the Board in that matter. Any such petition
2015 must be filed within 60 days after ~~the action complained of~~ entry of the order of the Board. The
2016 Board shall have 30 days after filing of any such petition within which to file a response.

2017 [Amended by order entered June 22, 1988; by order filed April 15, 1999, effective May 1, 1999;
2018 and amended by order entered May 2, 2011.]

2019 **Sec. 14.02. Costs.**

2020 The Supreme Court may make such orders as it may consider appropriate with respect to the
2021 payment of or security for costs and other expenses of hearings before the Court.

2022 **Sec. 14.03. Exhaustion of Board Remedies.**

2023 The Supreme Court will entertain no application or petition from any person who may be
2024 affected directly or indirectly by this Rule, unless that person has first exhausted his remedy
2025 before the Board.

2026 **Sec. 14.04. No Review of Failure to Pass Bar Examination.**

2027 The only remedy afforded for a grievance for failure to pass the bar examination shall be the
2028 right to re-examination as herein provided.

2029 **ARTICLE XV. SURRENDER OF LAW LICENSE**

2030 An attorney licensed to practice in Tennessee may petition The Supreme Court to accept the
2031 surrender of his or her license to practice law.

2032 The petition shall be filed in the office of the Clerk of the Appellate Courts in Nashville. The
2033 petitioner shall contemporaneously serve copies of the petition upon the Chief Disciplinary
2034 Counsel of the Board of Professional Responsibility, the Executive ~~Secretary~~ Director of the
2035 Board of Law Examiners, and the Executive Director of the Commission on Continuing Legal
2036 Education and Specialization.

2037 The petition shall state under oath:

2038 (a) the reason(s) for the requested surrender;

2039 (b) whether disbarment, suspension, disciplinary, or other administrative action of any nature is
2040 in effect or pending as to the petitioner;

2041 (c) whether there is a potential grievance, complaint, disciplinary or administrative action of any
2042 nature in any jurisdiction which may likely be filed against the petitioner;

2043 (d) whether the attorney is currently on probation, under criminal charge(s), or under
2044 investigation for criminal charge(s), of any nature in any jurisdiction.

2045 The Court may decline to consider any petition during the pendency of any of the matters
2046 described herein above.

2047 The attorney shall attach the law license to the petition or shall attach an affidavit fully
2048 explaining why the license is not attached.

2049 Upon consideration of the petition, the Court may grant the petition or deny it. If the Court grants
2050 the petition, the order accepting the surrender shall state the date the surrender shall take effect.
2051 The Clerk shall mail a copy of the order to the surrendering attorney, the Board of Professional
2052 Responsibility, the Board of Law Examiners, and the Commission on Continuing Legal
2053 Education and Specialization.

2054 As of the effective date of the order accepting surrender, the attorney shall have no license to
2055 practice law in this state. After the effective date of the order, this license shall not be reinstated,
2056 and the attorney may not be licensed to practice law in Tennessee until he or she applies for a
2057 law license in Tennessee and meets the requirements of Rule 7, Rules of The Supreme Court.

2058 [Article added by order entered April 11, 1996.]

2059 **ARTICLE XVI. REINSTATEMENT OF LAW LICENSE**

2060 Sec. 16.01. In accordance with Tenn. Sup. Ct. Rule 9, §§ 10 and 13, an attorney who has been
2061 suspended, disbarred or assumed inactive status and who wishes to take the bar examination as
2062 evidence of the attorney's fitness to practice law, must apply for examination as provided in
2063 Section 3.03 of this Rule, and attach to the application a disclosure that the application is being
2064 submitted pursuant to Section 16.01 of Rule 7.

2065 Sec. 16.02 Applicant's bar examination scores will not be posted but will be released directly to
2066 the applicant.

2067 Sec. 16.03. Submitting an application to take the bar examination constitutes the applicant's
2068 permission to allow the Board to release the results of the bar examination and the background
2069 investigation directly to the Board of Professional Responsibility.

2070 *Article XVI is new based on comments of the BPR and intervening changes to Rule 9.*
2071

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Comment

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

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

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

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

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

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

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

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

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

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

depositions in this jurisdiction.

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

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

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

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

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

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

~~[17] If an employed lawyer establishes an office or other systematic presence in this jurisdiction for the purpose of rendering legal services to the employer, the lawyer may be subject to registration or other requirements, including assessments for client protection funds and mandatory continuing legal education. See Tenn. Sup. Ct. R. 7, § 10.01 (Registration of In-House Counsel) Moved to paragraph (d)(3) above.~~

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

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

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

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

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

DEFINITIONAL CROSS-REFERENCES

"Informed consent" See RPC 1.0(e)

"Reasonably" See RPC 1.0(h)

"Tribunal" See RPC 1.0(m)

RULE 43: INTEREST ON LAWYERS' TRUST ACCOUNTS.

Tennessee Supreme Court Rule 8, Rule of Professional Conduct 1.15, requires that Tennessee lawyers who maintain pooled trust checking accounts for the deposit of client funds participate in the IOLTA (Interest On Lawyers' Trust Accounts) program.

...

Section 14. Unless exempt under this Section 14, every lawyer admitted to practice in Tennessee shall certify in the lawyer's annual registration statement required by Tennessee Supreme Court Rule 9, as a condition of licensure, that all funds in the lawyer's possession that are required pursuant to RPC 1.1 5(b) to be held in an IOLTA account are, in fact, so held and shall list the name(s) of the financial institution(s) and account number(s) where such funds are deposited. This certification shall be made on a form provided by the Board of Professional Responsibility and shall be submitted by the lawyer within the time period set forth in Rule 9 for the annual registration statement. A lawyer licensed in Tennessee is exempt, and shall so certify on the lawyer's annual registration statement, if:

- (a) the lawyer is not engaged in the private practice of law in the State of Tennessee;
- (b) the lawyer serves as a Judge, Attorney General, Public Defender, U.S. Attorney, District Attorney, in-house counsel registered pursuant to Tennessee Supreme Court Rule 7, Section 10.01, teacher of law, on active duty in the armed forces or employed by state, local or federal government and not otherwise engaged in the private practice of law;
- (c) the lawyer does not have an office in Tennessee; however, for purposes of this Rule, a lawyer who practices, as a principal, employee, of counsel, or in any other capacity, with a firm that has an office in Tennessee shall be deemed for purposes of this Rule to have an office in Tennessee if the lawyer utilizes one or more offices of the firm located in Tennessee more than the lawyer utilizes one or more offices of the firm located in any other single state;
- (d) under regulations adopted by the Board of Professional Responsibility under criteria established upon recommendation of the Tennessee Bar Foundation, the lawyer or law firm is exempted from maintaining an IOLTA account because such an IOLTA account has not and cannot reasonably be expected to produce interest or dividends in excess of allowable reasonable fees; or
- (e) the lawyer is exempted by the Tennessee Bar Foundation from the application of this Rule following a written request for exemption by the lawyer and determination by the Tennessee Bar Foundation that no eligible financial institution (as defined and determined in accordance with this Rule 43) is located within reasonable proximity of that lawyer.

EXHIBIT B

Rule 6. Admission of Attorneys.

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

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

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

2 **PREFACE**

3 The Board of Law Examiners for the State of Tennessee (herein, the “Board”) is created as a part
4 of the judicial branch of government by The Supreme Court of Tennessee pursuant to its inherent
5 authority to regulate courts. The Supreme Court appoints the members of the Board of Law
6 Examiners and has general supervisory authority over all the Board’s actions. Admission to
7 practice law is controlled by The Supreme Court, which acts on the basis of the certificate of the
8 Board.

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

10 **Sec. 1.01. Prerequisites to Engaging in Practice of Law or Law Business.**

11 No person shall engage in the “practice of law” or the “law business” in Tennessee as defined in
12 T.C.A. § 23-3-101 and Tennessee Supreme Court Rule 9, DR 10.3(e), except pursuant to the
13 authority of this Court, unless:

14 (a) he or she has been:

- 15 (i) admitted to the bar of The Supreme Court in accordance with Rule 6, and
- 16 (ii) issued a license by The Supreme Court in accordance with this Rule and after having
17 been administered the oath in accordance with Rule 6 as set forth in this Rule; or

18 (b) he or she has been granted permission to engage in special or limited practice under the
19 provisions of Sections 5.01(g), 10.01, 10.02, 10.03, 10.04 or 10.06 of this Rule; or

20 (c) he or she is practicing in compliance with Tenn. Sup. Ct. R. 8, RPC 5.5(c), Tenn. Sup. Ct. R. 8,
21 RPC 5.5 (d), or Tenn. Sup. Ct. R. 19 (pro hac vice).

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

24 **Sec. 1.02. License; Certificate of Eligibility Required.**

25 The Supreme Court shall grant a license evidencing admission to the bar of Tennessee only
26 upon presentation of a Certificate of Eligibility issued by the Board pursuant to section 9.01 of
27 this Rule. The applicant must comply with Rule 6 and obtain his or her license within two years
28 of: (a) the date of the notice that the applicant successfully passed the bar examination; or (b) the
29 date of the notice of the Board’s approval of the application for admission under Article V of this
30 rule. All bar examination scores and investigations are invalid upon the expiration of the
31 applicable two-year period provided in Section 4.07(b) of this Rule.

32 [Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19,
33 1992.]

34 **Sec. 1.03. Criteria for Issuance of the Certificate of Eligibility.**

35 The Board shall issue a Certificate of Eligibility pursuant to section 9.01 of this Rule only upon
36 its determination that the applicant:

37 (a) is at least 18 years of age;

38 (b) has satisfied the educational requirements for admission specified by this Rule;

39 (c) has passed the examination or examinations required by this Rule, or is eligible for admission
40 without examination as hereinafter provided in Article V;

41 (d) has demonstrated the reputation and character that in the opinion of the Board indicates no
42 reasonable basis for substantial doubts that the applicant will adhere to the standards of conduct
43 required of attorneys in this State; and

44 (e) has evidenced a commitment to serve the administration of justice in this State.

45 [Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19,
46 1992.]

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

48 If an applicant who has been admitted to practice in in another state in the United States, the
49 District of Columbia, or U.S. Territories satisfies the other requirements for admission, and
50 demonstrates competence to practice in Tennessee by meeting the criteria specified in this Rule,
51 the Board may waive the requirement of passing an examination as provided in Article V.

52 [Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19,
53 1992.]

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

55 All persons admitted to the bar of Tennessee are by virtue of such admission: (i) officers of the
56 courts of Tennessee, eligible for admission to practice in any court in this State, and entitled to
57 engage in the "practice of law" or the "law business" as defined in Section 1.01 of this Rule; and
58 (ii) subject to the duties and standards imposed from time to time on attorneys in this State.

59 [Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19,
60 1992.]

61 **Sec. 1.06. Existing Licenses.**

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

65

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

67 **Sec. 2.01. Bachelor's Degree.**

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

75 (transferred to 2.02)

76 (b) The Board in its discretion may waive the requirement of a degree from an accredited
77 undergraduate school if the applicant has graduated from either: (i) a law school accredited by
78 the American Bar Association or (ii) a Tennessee law school approved by the Board pursuant to
79 § 2.03.

80 [Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19,
81 1992; as amended by order filed April 15, 1999, effective May 1, 1999; and by order filed March
82 15, 2010, effective March 15, 2010.]

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

84 (a) To be eligible to take the examination or to be eligible for licensing without examination
85 pursuant to Article V, an applicant must have completed a course of instruction in and graduated
86 from a regularly organized law school accredited by the American Bar Association at the time
87 of applicant's graduation, or a Tennessee law school approved by the Board pursuant to Section
88 2.03 at the time of the applicant's graduation.

89 (b) To be eligible to take the examination, an applicant must cause to be filed as part of the
90 application a certificate from the dean or supervising authority of the school of law in which the
91 applicant is enrolled or from which the applicant graduated, certifying that either the school is
92 accredited by the American Bar Association or the school is a Tennessee law school that has
93 been approved by the Board under Section 2.03 and that:

- 94 (i) the applicant has completed all the requirements for graduation, or
- 95 (ii) the applicant will have the number of credit hours required for graduation by the date of
96 the bar examination

97 If an applicant's certificate shows that the applicant has not yet graduated as in (b)(ii) above, the
98 applicant must cause to be filed a supplemental statement by the dean or other supervising
99 authority showing completion of all requirements for graduation by the date of the examination.

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

105 (i) The attorney holds a J.D. Degree, which is not based on study by correspondence
106 or other than in-person attendance, from a law school approved by an authority
107 similar to the Tennessee Board of Law Examiners in the jurisdiction where it exists
108 and which requires the equivalent of a three-year course of study that is the
109 substantial equivalent of the legal education provided by approved law schools
110 located in Tennessee. The applicant shall bear the cost of the evaluation of his/her
111 legal education, as determined by the Board, and the applicant shall not be eligible to
112 sit for the bar examination until the applicant's legal education is approved by the
113 Board; and

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

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

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

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

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

131 [Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19, 1992;
132 as amended by order filed April 15, 1999, effective May 1, 1999. Amended by order filed March
133 15, 2010, effective as of the date of the Order.]

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

136 The Board may approve any law school in Tennessee seeking provisional accreditation and
137 pending full accreditation by the American Bar Association for the purpose of allowing its

138 graduates to be eligible to take the Tennessee bar examination when the standards in this section
139 are met and the Board finds the school is effectively achieving its mission and objectives.

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

143 (i) An understanding of their professional responsibilities as representatives of clients,
144 officers of the courts, and public citizens responsible for the quality and availability of justice
145 under the law;

146 (ii) A basic legal education through a course of study that develops an understanding of the
147 fundamental principles of public and private law, an understanding of the nature, basis and
148 role of the law and its institutions, and skills of legal analysis and writing, issue recognition,
149 reasoning, problem solving, organization, and oral and written communications necessary to
150 participate effectively in the legal profession.

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

153 (i) It shall be governed by, and its general policies shall be established by, a governing board
154 composed of individuals who are not members of its faculty and who are dedicated to
155 fulfilling the mission or objectives of the school.

156 (ii) It shall have a dean, selected by the governing board, to whom the dean shall be
157 accountable; and who shall be provided with the authority and support needed to carry out
158 the responsibilities of the position.

159 (iii) The dean, with the advice of the faculty or its representatives, shall formulate and
160 administer the educational program of the school, including the course of study; methods of
161 instruction; admission; and academic standards for retention, advancement and graduation of
162 students; and shall recommend to the governing board the selection, retention and
163 compensation of the faculty.

164 (iv) Alumni, students and others may be involved in assisting the governing board, the dean
165 and the faculty in developing policies and otherwise in fulfilling the mission or objectives of
166 the school, in a participatory or advisory capacity.

167 (v) A school shall not be conducted as a commercial enterprise, and the compensation of any
168 person shall not depend on the number of students or on the fees received.

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

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

- 174 (i) A law school shall have a faculty whose members possess a high level of competence and
175 experience as may be demonstrated by education, teaching ability, judicial service, and
176 capacity for legal research and writing.
- 177 (ii) To be eligible for appointment to the faculty, a person must be a licensed attorney of
178 known ability and integrity. Nothing in this section shall, however, prevent the appointment
179 of other persons of known ability and integrity who are not licensed lawyers to instruct in
180 inter-disciplinary courses such as accounting, taxation, legal research, writing skills, and
181 medicine for lawyers.
- 182 (iii) A law school shall take reasonable steps to ensure the teaching effectiveness of each
183 member of the faculty.
- 184 (iv) A number of faculty members shall be employed sufficient to fulfill the mission or
185 objectives of the school.
- 186 (d) Facilities. A school shall have classrooms, other physical facilities and technological
187 capacities that are adequate for the fulfillment of its mission or objectives.
- 188 (e) Library. A school shall maintain a law library, including access to computerized research,
189 sufficient to meet the research needs of its students and facilitate the education of its students
190 consistent with its mission or objectives. The library shall be available to all students at
191 reasonable hours.
- 192 (f) Program of Legal Education. A school shall maintain an educational program designed to
193 fulfill its mission or objectives, which program shall be consistent with the following standards:
- 194 (i) The educational program shall be designed to qualify its graduates for admission to the
195 bar and to prepare them to participate effectively and honorably in the legal profession.
- 196 (ii) The course of study shall:
- 197 1) include instruction in those subjects generally regarded as the core of the law school
198 curriculum, including but not limited to the law school subjects covered on the Tennessee
199 bar examination and listed in section 4.04;
- 200 2) be designed to fulfill the school's mission or objectives, including those expressed in
201 paragraph (a) of this Section;
- 202 3) include at least one rigorous writing experience;
- 203 4) require at least the minimum standards of class hours required from time to time
204 under the American Bar Association standards for approval of law schools for the
205 particular category of school;
- 206 5) be based on a schedule of classes to meet the minimum standards of class hours,
207 which schedule may include weekend classes;
- 208 6) include adequate opportunities, and emphasis on, instruction in professional skills,
209 particularly skills in written communication.

- 210 (iii) a school shall adopt and adhere to sound standards of academic achievement, including:
211 1) clearly stated standards for good standing, advancement and graduation; and
212 2) termination of enrollment of a student whose inability or unwillingness to do
213 satisfactory work is sufficiently manifest so that such student's continuation in school
214 would inculcate false hopes, constitute economic exploitation, or detrimentally affect
215 the education of other students.

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

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

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

- 221 1) Received or be on course to receive a bachelor's degree or higher as provided in
222 Section 2.01; and
223 2) Taken an acceptable test for the purpose of assessing the applicant's capability of
224 satisfactorily completing the school's educational program; (the Law School
225 Admission Test sponsored by the Law School Admission Council qualifies as an
226 acceptable test; and the use of any other test must be approved by the Board) and
227 3) Satisfied the minimum requirements for admission established by the governing board
228 of the school; and
229 4) Satisfied the dean and Admissions Committee that the applicant possesses good moral
230 character.

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

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

- 236 (i) a statement of mission or objectives;
237 (ii) admission data;
238 (iii) tuition, fees, living costs, financial aid, and refunds;
239 (iv) enrollment data and graduation rates;
240 (v) composition and number of faculty and administrators;
241 (vi) description of educational program and curricular offerings;
242 (vii) library resources;
243 (viii) physical facilities; and
244 (ix) placement rates and bar passage data.

245 (i) Self-Study.

246 (i) The dean and faculty shall develop and periodically revise a written self-study,
247 including an evaluation of the following topics:

- 248 1) the continuing relevance of the school's mission or objectives;
- 249 2) the effectiveness of the program of legal education;
- 250 3) the appropriateness of the school's admission policies;
- 251 4) the significance of the trend in rates of graduation and attrition;
- 252 5) the significance of the trends in the pass/fail rate on the bar examination;
- 253 6) the strengths and weaknesses of the school's policies;
- 254 7) goals to improve the educational program; and
- 255 8) means to accomplish unrealized goals.

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

258 (j) Functions of Board.

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

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

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

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

273 (v) A law school may be granted approval and be in good standing when it establishes to the
274 satisfaction of the Board that it is in compliance with the standards set forth herein and the
275 Board finds the school is effectively achieving its mission and objectives.

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

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

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

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

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

297 **Sec. 2.04. No Correspondence Course. Abrogated.** [Amended by order filed August 23, 1993,
298 and entered nunc pro tunc effective October 19, 1992.]

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

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

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

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

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

313 [Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19,
314 1992.]

315

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

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

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

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

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

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

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

341 (d) The Board shall schedule the site evaluation of the law school to take place during the
342 academic year at a time when regular academic classes are being conducted. A site evaluation
343 usually requires several days, as classes are visited, faculty quality assessed, admissions policies
344 reviewed, records inspected, physical facilities examined, the library assessed, information
345 reviewed, and consultations held with the chairperson of the board, officers of the institution, the
346 dean of the law school, members of the law school faculty, professional staff, law students, and
347 members of the legal community. In the case of a law school seeking approval, such visit shall
348 be scheduled within three months after receipt by the Board of an application for approval.

349 (e) Following a site evaluation, the team shall promptly prepare a written report based upon the
350 site evaluation. The team shall not determine compliance or non-compliance with the standards,
351 but shall report facts and observations that will enable the Board and The Supreme Court to

352 determine compliance. The report of the team should give as much pertinent information as
353 feasible.

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

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

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

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

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

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

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

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

386 (b) If upon a review of the information furnished by the law school in response to the Board's
387 request and other relevant information, the Board determines that the school has not

388 demonstrated compliance with the standards or is not effectively achieving its mission or
389 objectives, the school may be required to appear at a hearing before the Board to be held at a
390 specified time and place to show cause why the school should not be required to take appropriate
391 remedial action, placed on probation, removed from the list of law schools approved by The
392 Supreme Court, or be subject to other appropriate action.

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

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

406 **Sec. 2.10. Fact Finder.**

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

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

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

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

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

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

428 (a) The Board shall have available for review at the show cause hearing:

429 (i) the fact finder's report, if any;

430 (ii) the most recent site evaluation report;

431 (iii) any site evaluation questionnaire;

432 (iv) any action letters written subsequent to the most recent site evaluation report, which
433 letters direct the school to rectify non-compliance or correct deficiencies;

434 (v) notice of Board hearing; and

435 (vi) other relevant information.

436 (b) Representatives of the law school, including legal counsel, may appear at the hearing and
437 submit information to demonstrate that the school is currently in compliance with all of the
438 standards and is effectively achieving its mission or objectives or to present a reliable plan for
439 bringing the school into compliance with all of the standards and to correct deficiencies within a
440 reasonable time.

441 (c) The Board may invite the fact finder, if any, and the chairperson or other member of the most
442 recent site evaluation team to appear at the hearing. The law school shall reimburse the fact
443 finder and site evaluation team member for reasonable and necessary expenses incurred in
444 attending the hearing.

445 (d) After the hearing, the Board shall determine whether the law school is in compliance with the
446 standards and whether it is effectively achieving its mission and objectives and, if not, it shall
447 direct the law school to take remedial action or shall impose sanctions, as appropriate.

448 (i) Remedial action may be ordered pursuant to a reliable plan for bringing the school
449 into compliance with all of the standards and to help it achieve its mission and
450 objectives.

451 (ii) If matters of non-compliance or deficiencies are substantial or have been
452 persistent, then the Board may recommend to The Supreme Court that the school be
453 subjected to sanctions other than removal from the list of approved law schools
454 regardless of whether the school has presented a reliable plan for bringing the school
455 into compliance or to correct deficiencies.

456 (iii) If matters of noncompliance or deficiencies are substantial or have been
457 persistent, and the school fails to present a reliable plan for bringing the school into
458 compliance with all of the standards or to correct deficiencies, the Board may
459 recommend to The Supreme Court that the school be removed from the list of
460 approved schools.

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

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

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

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

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

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

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

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

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

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

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

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

494 (g) If The Supreme Court imposes sanctions in the absence of a reliable plan for bringing the
495 school into compliance with all of the standards or to correct deficiencies, the Board shall

496 monitor the steps taken by the school to come into compliance. If the Court imposes sanctions
497 pursuant to a reliable plan for bringing the school into compliance with the standards and/or to
498 correct deficiencies, the Board shall monitor the steps taken by the school for meeting its plan.
499 At any time that the school is not making progress toward compliance with all of the standards or
500 to correct deficiencies, or at any time that the school is not meeting the obligations of its plan, or
501 if at the end of a period of time set by the Court for coming into compliance the school has not
502 achieved compliance with all of the standards or corrected all deficiencies, the Board shall
503 forward a recommendation that the school be removed from the list of approved schools. This
504 recommendation shall be heard by the Court under the procedures of this section 2.13 but the
505 only issue for Court consideration will be whether the school has met the terms of its plan or is in
506 compliance with all of the standards or has corrected deficiencies.

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

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

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

513 Upon communication to a law school of a final decision that it is not in compliance with the
514 standards or has failed to effectively achieve its mission or objectives and informing it that it has
515 been ordered to take remedial action or has been placed on probation, the school shall have a
516 period as set by The Supreme Court to come into compliance. The period may not exceed two
517 (2) years unless such time is extended by The Supreme Court, as the case may be, for good cause
518 shown.

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

520 **Sec. 2.15. Conflicts of Interest.**

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

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

531 **ARTICLE III. APPLICATION FOR ADMISSION BY EXAMINATION**

532 **Sec. 3.01. Application Form.**

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

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

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

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

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

543 The application process to take the examination shall begin on March 1 for the July examination
544 and October 1 for the February examination and shall be completed no later than **May 20** for
545 taking the July examination and **December 20** for taking the February examination. In order for
546 the Board to have sufficient time to determine each applicant's eligibility to sit for the bar
547 examination, all documentation required to be submitted to the Board to complete the application
548 process, including submitting the documents required for the background investigation required
549 in Section 6.03(b) herein, must be submitted on or before the deadline, and all fees must be paid
550 in full on or before the deadline. Original documents that must be mailed to the Board must be
551 received on or before the deadline. Applicants who have not completed the application process
552 by the deadline are ineligible to sit for the examination. The only recourse for failure to complete
553 the application process is to reapply for the next examination. The Board shall list the items
554 necessary for a complete application in the Board Policies and Procedures. [Amended by order
555 entered April 18, 1985; by order entered June 22, 1988; and by order filed August 23, 1993, and
556 entered nunc pro tunc effective October 19, 1992.]

557 *Reason for change: As originally proposed, the change was to one deadline of May 31 or December*
558 *30. However, because of potential holidays that would extend the deadline, the recommendation has*
559 *been changed to May 20 and December 20.*

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

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

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

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

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

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

573 **Sec. 3.07. Additional Information.**

574 (a) The Board or any individual member thereof may request any applicant to furnish additional
575 information:

- 576 (i) To supplement or explain answers to any question on the application;
577 (ii) As to the applicant's character;
578 (iii) As to the educational qualifications of the applicant, including information with
579 respect to schools attended by the applicant;
580 (iv) As to the experience of the applicant; and
581 (v) As to such other matters as may be considered germane to the provisions of this
582 Rule.

583 (b) The Board or any individual member thereof, as part of the character investigation of an
584 applicant, may request an applicant to submit to a drug test. Failure or refusal to submit to the
585 drug test shall be sufficient cause for the Board to refuse such applicant a license.

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

594 [Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19,
595 1992.]

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

597 Each applicant for admission to the bar has a duty to be candid and to make full, careful and
598 accurate responses and disclosures in all phases of the application and admission process. Each

599 applicant must respond fully to all inquiries. It is not proper for an applicant to give either an
600 incomplete or misleading description of past events reflecting on the applicant's qualifications
601 for admission to the bar.

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

606 [Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19,
607 1992.]

608 **Sec. 3.09. False Information.**

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

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

615 [Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19,
616 1992.]

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

618 Neither the Executive Director nor the Board shall have discretion to waive or extend the dates
619 for filing applications to take the examination specified in Section 3.03. An applicant aggrieved
620 by an action of the Board denying an application pursuant to this Article shall not be entitled to
621 petition The Supreme Court for a review of said action.

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

624 **Sec. 3.11. Applicants Requiring Non-Standard Testing Accommodations**

625 The bar examination shall be administered to all eligible applicants in a manner that does not
626 discriminate against applicants with non-standard testing needs. An applicant who is otherwise
627 eligible to take the Tennessee bar examination may request a modification of the manner in
628 which the examination is administered if such applicant is unable to take the examination under
629 normal testing conditions. The Board shall adopt a policy regarding applicants requiring non-
630 standard testing accommodations pursuant to Section 12.05 of this Rule. An applicant
631 requesting non-standard testing accommodations shall complete and submit the documents
632 prescribed by the Board by the application deadline set forth in Section 3.03, except when the
633 disability first occurs after the filing deadline. Because the forms and procedures are detailed,

634 requiring the applicant to attach statements from law school officials and treating professionals,
635 any applicant requesting non-standard testing conditions is encouraged to request, complete, and
636 submit the application for admission by examination and the necessary request for non-standard
637 testing and related forms to the Board as early as possible to permit an evaluation of the request.
638 To the extent practicable, any accommodations requested shall be consistent with the security
639 and integrity of the examination. The Board may transmit the application for non-standard
640 testing or refer the applicant to an appropriate professional selected by the Board for assessment
641 and recommendations regarding the accommodation to grant. By submitting a request for non-
642 standard testing, the applicant agrees to the release of the application to an appropriate
643 professional and agrees to appear for assessment, if requested to do so by the Board. [Added by
644 order entered April 15, 1999, effective May 1, 1999.]

645 **ARTICLE IV. THE EXAMINATION**

646 **Sec. 4.01. The Purpose of the Examination.**

647 The purpose of the examination is to enable applicants to demonstrate to the Board that they
648 possess the knowledge, skills and abilities basic to competence in the profession, which are
649 subject to testing. [Amended by order filed August 23, 1993, and entered nunc pro tunc effective
650 October 19, 1992.]

651 **Sec. 4.02. The Structure of the Examination.**

652 The Board, in its discretion, shall determine the format and the structure of the examination, and
653 shall include essay questions, the National Conference of Bar Examiners Multistate Bar
654 Examination, other multiple choice questions, the National Conference of Bar Examiners
655 Multistate Professional Responsibility Examination and such other categories of tests as the
656 Board may consider appropriate. The Board may in its discretion use questions prepared by the
657 National Conference of Bar Examiners for the Multistate Essay Examination and Multistate
658 Performance Test. The Board may contract with others to provide test materials and to grade the
659 same.[Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19,
660 1992; amended by order filed April 15, 1999, effective May 1, 1999.]

661 **Sec. 4.03. The Dates and Places of Giving the Examination.**

662 The examination shall be given in February and July of each year, in at least one of the three
663 grand divisions.

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

666 **Sec. 4.04. The Scope of the Examination.**

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

- 669 1. Constitutional law (United States and Tennessee).
670 2. Criminal law (substantive and procedural).
671 3. Contracts.
672 4. Torts.
673 5. Property (real and personal).
674 6. Evidence.
675 7. Civil procedure (United States and Tennessee).
676 8. Business organizations (including agency, partnerships and corporations).
677 9. Commercial transactions (Articles 1, 2, and 9 of the Uniform Commercial Code).
678 10. Wills and estates.
679 11. Family law (husband and wife, parent and child, marriage and divorce, etc.).
680 12. Professional responsibility.
681 13. Restitution and remedies.
682 14. Conflicts of law.
683 [Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19,
684 1992.]
- 685 **Sec. 4.05. Re-examination.**
686 In case of failure on examination, the Board may, in its discretion, allow the applicant to take
687 another examination upon completion of the application process herein provided and the
688 payment of the requisite fee.
- 689 **Sec. 4.06. Effect of Taking Examination on Eligibility for Admission.**
690 The fact that an applicant is allowed to take the examination shall not preclude further inquiries,
691 investigation or proceedings with respect to the other criteria for admission under this Rule.
692 [Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19,
693 1992.]
- 694 **Sec. 4.07. Grading the Examination and Score Expiration.**
695 (a) The Board shall continue to maintain procedures which assure that the identity of each
696 applicant in the grading process is not known to any person having responsibility for grading or

697 determining whether the applicant passes or fails until the grades of all applicants have been
698 finally determined.

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

701 (c) A score equal to or greater than that required by Tennessee on the Multistate Professional
702 Responsibility examination (MPRE) must be achieved within two years of successfully
703 completing the Tennessee bar examination; provided, however, that an applicant who:

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

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

707 (iii) achieved a score of 75 or higher on the MPRE two (2) or more years before
708 successful completion of the Tennessee bar examination

709 may provide proof of that earlier score to satisfy the MPRE requirement. It is the responsibility
710 of the applicant to cause MPRE score reports to be furnished to the Board.

711 [Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19,
712 1992.]

713 **ARTICLE V. – PERSONS ADMITTED IN OTHER JURISDICTIONS** 714 **SEEKING WAIVER OF EXAMINATION**

715 **Sec. 5.01 Minimum Requirements for Admission of Persons Admitted in Other** 716 **Jurisdictions.**

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

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

720 (ii) have been admitted by bar examination to practice law in one or more states or territories
721 of the United States, or the District of Columbia;

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

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

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

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

731 (b) **Diploma Privilege.** An applicant who was admitted and licensed to practice in another state
732 pursuant to a “diploma privilege” which exempts an applicant from taking a bar examination
733 may seek a waiver of subsection (a)(i) by filing a petition with the Board setting forth the
734 reasons why he or she should be admitted to practice law in Tennessee. The Board shall then
735 conduct a hearing in response to the petition, according to the guidelines set forth in section
736 13.03, for the purpose of assessing the applicant's reputation, character, knowledge, skills and
737 abilities. After considering the totality of the proof presented, the Board shall make a
738 recommendation to The Supreme Court either for approval or denial of the petition or for such
739 other action as the Board may deem appropriate. Any applicant whose petition for waiver of
740 subsection (a)(i) is denied by the Board may file a petition for review in The Supreme Court
741 pursuant to the procedures set forth in Article XIV.

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

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

- 747 (1) full-time private or public practice as a licensed attorney;
748 (2) teaching law full-time at a law school approved by the American Bar Association;
749 (3) service as a judicial law clerk or staff attorney; and
750 (4) service as a Judge, Attorney General, Public Defender, U.S. Attorney, District
751 Attorney, or duly registered In-House Counsel or Military Spouse.

752 (ii) For the purposes of this rule, in addition to the definitions of “Practice of Law” and
753 “Law Business” in Section 1.01 of this Rule, the “active practice of law” may be construed in
754 the Board's discretion as being actively engaged in other full-time employment requiring
755 interpretation of law and application of legal knowledge if performed in a jurisdiction in
756 which the applicant is admitted, or if performed in a jurisdiction that permits such activity by
757 a lawyer not admitted to practice; however, in no event shall any activities that were
758 performed pursuant to a provision similar to Section 10.04 or Section 5.01(g) of this Rule in
759 advance of bar admission in some state or territory of the United States or the District of
760 Columbia be accepted toward the durational requirement. The Board shall consider such
761 evaluative criteria as time devoted to legal work, the nature of the work, whether legal
762 training or a law license was a prerequisite of employment, and other similar matters.

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

- 767 (e) **Previous Tennessee Bar Examination.** An applicant who has failed a bar examination
768 administered in this jurisdiction within five years of the date of filing an application under this
769 Rule shall not be eligible for admission on motion.
- 770 (f) **Admission on Motion Application and Fees.** Any applicant seeking admission on motion to
771 the practice of law in Tennessee shall:
- 772 (i) file an application for admission on motion, including character investigation
773 information, in a manner established by the Board, including all required supporting
774 documents;
 - 775 (ii) submit a certificate of good standing from the highest court of each state to which
776 applicant has been admitted; and
 - 777 (ii) pay the application fee as adopted pursuant to Section 11.01 of this Rule.
- 778 (g) **Practice Pending Admission by Applicant Licensed in Another Jurisdiction.** A lawyer
779 currently holding an active license to practice law in in another state in the United States, the
780 District of Columbia, or U.S. Territories and who has submitted an application for admission
781 upon motion in compliance with this Section 5.01 of this Rule or an application for examination
782 in compliance with Section 3.03 of this Rule may provide legal services in this jurisdiction
783 through an office or other systematic and continuous presence during the pendency of the
784 application for admission on motion but for no more than 365 days, provided that the lawyer:
- 785 (i) is not disbarred or suspended from practice in any jurisdiction;
 - 786 (ii) has not been denied admission to practice in any jurisdiction, including Tennessee,
787 unless the Board determines otherwise;
 - 788 (iii) reasonably expects his/her application for admission to be granted;
 - 789 (iv) notifies the Board of Professional Responsibility in writing within 30 days of first
790 establishing an office or other systematic and continuous presence for the practice of law in
791 this jurisdiction that the lawyer has done so pursuant to the authority in this Section 5.01;
 - 792 (v) associates with a lawyer who is admitted to practice in Tennessee;
 - 793 (vi) complies with Tenn. Sup. Ct. R. 8, RPC 7.1 and RPC 7.5 in all communications with
794 the public and clients regarding the nature and scope of the lawyer's practice authority in
795 Tennessee;
 - 796 (vii) pays the fee associated with the Application to Practice Pending Admission;
 - 797 (viii) does not appear before a tribunal in Tennessee that requires *pro hac vice* admission
798 unless the lawyer is granted such admission;
 - 799 (ix) has never before practiced in Tennessee pursuant to this provision, unless the Board
800 determines otherwise; and
 - 801 (x) notifies the Board of Professional Responsibility and the Board if the lawyer becomes
802 the subject of a pending disciplinary investigation in any other jurisdiction at any time
803 during the period of practice authorized under this provision.

804 (h) **Termination of Right of Practice Pending Admission.** The right to practice pending
805 admission established by Section 5.01(g) terminates if the lawyer withdraws the application for
806 admission or if such application is denied; if the lawyer becomes disbarred, suspended, or takes
807 disability inactive status in any other jurisdiction in which the lawyer is licensed to practice law;
808 or if the lawyer fails to timely provide the written notice required by Section 5.01 (g)(iv). Upon
809 termination of the right of practice, the lawyer shall not undertake any new representation that
810 would require the lawyer to be admitted to practice law in this jurisdiction and, within 10 days.
811 shall:

- 812 (i) cease to occupy an office or other systematic and continuous presence for the practice
- 813 of law in Tennessee unless authorized to do so pursuant to another Rule;
- 814 (ii) notify all clients being represented in pending matters, and opposing counsel or co-
- 815 counsel of the termination of the lawyer's authority to practice pursuant to Section 5.01; and
- 816 (iii) take all other necessary steps to protect the interests of the lawyer's clients.

817 **Sec. 5.02. Additional Considerations.** In determining whether such applicants satisfy the
818 requirements of Section 5.01, the Board shall consider any evidence submitted by the applicant
819 in an effort to demonstrate that the applicant possesses the knowledge, skill and abilities basic to
820 competence in the profession.

821 [Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19,
822 1992.]

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

824 **Sec. 6.01. Applicable Standard.**

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

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

833 **Sec. 6.02. Investigatory Committees.**

834 (a) In order to assist the Board in conducting character investigations of applicants, The Supreme
835 Court shall appoint one or more investigating committees within each disciplinary district
836 established under Rule 9. Each committee shall consist of not less than five (5) nor more than
837 thirty (30) members of the Bar of this State who maintain an office for the practice of law within
838 that district and who are in good standing; provided, however, that the District 5 committee may
839 have up to sixty (60) members. Attorneys who teach in any capacity in any of the state's ABA

840 accredited or state-approved law schools are ineligible to serve as members of the Investigatory
841 Committees. The Board may recommend to the Court the creation of additional committees or
842 the increase in membership of any committee.

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

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

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

855 **Sec. 6.03. Investigating Procedures.**

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

- 858 (i) detecting any deficiencies in the application; and
859 (ii) determining whether any additional information is needed with respect to any aspect of
860 the application.

861 (b) As part of the character and fitness requirement for licensing, each applicant, other than an
862 applicant pursuant to Section 10.01 of this Rule, is required to have a current completed
863 background investigation conducted by the National Conference of Bar Examiners (NCBE). It is
864 the responsibility of each applicant to make the request to the NCBE for a background
865 investigation and pay the required fee directly to the NCBE. In the event an applicant has not
866 been licensed within two years of submission of the original background investigation, the
867 applicant must request a supplemental investigation at that time and every two years thereafter,
868 until the applicant is licensed, or the application is withdrawn or denied.

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

873 (d) On the receipt of an application, the investigating committee member to whom the
874 application has been assigned shall review same and such other information as may be
875 transmitted by the Executive Director and shall conduct such investigation as appears to him or

876 her to be appropriate. In any event, each applicant referred to a committee shall be interviewed in
877 person by a member of that committee. In conducting such investigations, the investigating
878 committee member may take statements from the applicant and from such other persons as may
879 be considered appropriate.

880 (e) On the completion of the investigation, the investigating committee member shall report his
881 or her findings to the Board, in the form directed by the Board, and shall recommend fully,
882 recommend with reservations or not recommend the applicant for licensing and admission.

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

897 *Amended by Order entered May 15, 2014.*

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

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

900 (a) Notwithstanding the provisions of § 2.01 and § 2.02, an applicant who has completed a
901 course of study in and graduated from a law school in a foreign country, which law school was
902 then recognized and approved by the competent accrediting agency of such country, may qualify,
903 in the discretion of the Board, to take the bar examination, provided that the applicant shall
904 satisfy the Board that his or her undergraduate education and legal education were substantially
905 equivalent to the requirements of this rule. Applicants shall furnish such additional information
906 as may be required by the Board to enable the Board to determine the applicant's eligibility for
907 such admission.

908 (b) In addition to the requirement in (a), above, the applicant shall demonstrate to the satisfaction
909 of the Board that the applicant has been awarded, by a law school fully accredited by the
910 American Bar Association or a Tennessee law school approved by the Board under § 2.03, an
911 LL.M. Degree for the Practice of Law in the United States in a degree program that meets the
912 following requirements:

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

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

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

923 (c) A foreign-educated applicant who meets the foreign education requirements in Section
924 7.01(a) and who began a program of 24 hours at an ABA-accredited or one-third of the credits
925 necessary to graduate from a Tennessee approved law school no more than twelve months prior
926 to **[the effective date of the amendments to this rule]** may, in the discretion of the Board and
927 upon request for waiver, be deemed eligible to sit for the examination in lieu of the requirements
928 of Section 7.01(b).

929 [Amended by order filed August 23, 1993 and entered nunc pro tunc effective October 19, 1992;
930 amended by order filed May 29, 2009, effective August 1, 2010; and amended by order filed July
931 21, 2011, effective September 1, 2011.]

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

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

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

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

941 [Amended by order filed August 23, 1993, and entered nunc pro tunc effective October 19,
942 1992.]

943 **ARTICLE VIII. COMMITMENT TO SERVE THE ADMINISTRATION OF** 944 **JUSTICE IN TENNESSEE**

945 **Sec. 8.01. Applicable Standard.**

946 The requisite commitment to serve the administration of justice in Tennessee subject to the
947 duties and standards imposed on attorneys in this State shall be evidenced by a statement by the

948 applicant before examination, or admission by comity, that the applicant agrees to abide by the
949 duties and standards imposed from time to time on attorneys in this State.

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

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

952 **ARTICLE IX. ISSUANCE OF LICENSE—EFFECTIVE DATE OF**
953 **ADMISSION**

954 **Sec. 9.01. Certificate of Board.**

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

960 (b) The Certificate of Eligibility for Admission (the “Certificate of Eligibility”) shall be valid for
961 90 days from the date of issuance. The Board, for good cause shown and subject to the time limit
962 imposed by section 1.02, may grant the applicant a reasonable extension of the time within
963 which to complete the licensure process, including compliance with Rule 6, if the applicant
964 shows to the satisfaction of the Board that he or she is unable to complete the process within the
965 90-day period.

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

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

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

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

975 An applicant shall not be considered admitted. to the bar of Tennessee until issuance of a license
976 by The Supreme Court and upon compliance with Rule 6.

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

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

981 **Sec. 9.05. Disapproval by The Supreme Court.**

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

986 **Sec. 9.06. Replacement License.**

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

990 **Sec. 9.07 Denial of License.**

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

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

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

997 (a) A lawyer admitted to the practice of law in another United States jurisdiction who has a
998 continuous presence in this jurisdiction and is employed pursuant to Tenn. Sup. Ct. R. 8, RPC
999 5.5(d)(1) as a lawyer by an organization, the business of which is lawful and consists of activities
1000 other than the practice of law or the provision of legal services, shall file an application for
1001 registration as in-house counsel within 180 days of the commencement of employment as a
1002 lawyer or if currently so employed then within 180 days of the effective date of this rule, by
1003 submitting to the Board of Law Examiners the following:

1004 (i) A completed application in the form prescribed by the Board;

1005 (ii) A fee in the amount set by the Board pursuant to Article XI:

1006 (iii) Documents proving admission to practice law and current good standing in all
1007 jurisdictions in which the lawyer is admitted to practice law; and

1008 (iv) An affidavit from an officer, director, or general counsel of the employing entity
1009 attesting to the lawyer's employment by the entity and the capacity in which the lawyer is so
1010 employed, and stating that the employment conforms to the requirements of this rule.

1011 (b) A lawyer registered under this section shall have the rights and privileges otherwise
1012 applicable to members of the bar of this jurisdiction with the following restrictions:

1013 (i) The registered lawyer is authorized to provide legal services to the entity client or
1014 its organizational affiliates, including entities that control, are controlled by, or are

- 1015 under common control with the employer, and for employees, officers and directors
1016 of such entities, but only on matters directly related to their work for the entity and
1017 only to the extent consistent with Tenn. Sup. Ct. R. 8, RPC 1.7; and
- 1018 (ii) The registered lawyer shall not:
- 1019 1) Except as otherwise permitted by the rules of this jurisdiction, appear before a
1020 court or any other tribunal as defined in Tenn. Sup. Ct. R. 8, RPC 1 (m), or
- 1021 2) Offer or provide legal services or advice to any person other than as described
1022 in paragraph (b)(i), or hold himself or herself out as being authorized to practice
1023 law in this jurisdiction other than as described in paragraph (b)(i) of this Section.
- 1024 (c) Notwithstanding the provisions of paragraph (b) above, a lawyer registered under this section
1025 is authorized to provide pro bono legal services through an established not-for-profit bar
1026 association, pro bono program or legal services program or through such organization(s)
1027 specifically authorized in this jurisdiction.
- 1028 (d) A lawyer registered under this section shall:
- 1029 (i) Pay all annual fees payable by active members of the bar;
- 1030 (ii) Fulfill the continuing legal education requirements that are required of active
1031 members of the bar;
- 1032 (iii) Report to the Board, within 30 days, the following:
- 1033 1) Termination of the lawyer's employment;
- 1034 2) Whether or not public, any change in the lawyer's license status in another
1035 jurisdiction, including by the lawyer's resignation;
- 1036 3) Whether or not public, any disciplinary charge, finding, or sanction
1037 concerning the lawyer by any disciplinary authority, court, or other tribunal in
1038 any jurisdiction.
- 1039 (e) A lawyer who is registered or who is required to register under this section shall be subject to
1040 Tenn. Sup. Ct. R. 8 (Rules of Professional Conduct) and all other laws and rules governing
1041 lawyers admitted to the active practice of law in this jurisdiction. The Board of Professional
1042 Responsibility has and shall retain jurisdiction over the lawyer who is registered or required to
1043 register with respect to the conduct of the lawyer in this or another jurisdiction to the same extent
1044 as it has over lawyers generally admitted in this jurisdiction.
- 1045 (f) A registered lawyer's rights and privileges under this section automatically terminate when:
- 1046 (i) The lawyer's employment terminates;
- 1047 (ii) The lawyer is suspended or disbarred from practice in any jurisdiction or any
1048 court or agency before which the lawyer is admitted; or
- 1049 (iii) The lawyer fails to maintain active status in at least one jurisdiction.

1050 Upon the occurrence of one or more of the foregoing events, the registered lawyer shall give
1051 notice in writing within 30 days to the Board and to the Board of Professional Responsibility.

1052 (g) A registered lawyer whose registration is terminated under paragraph (f)(i) above, may be
1053 reinstated within 180 days of termination upon submission to the Board of the following:

- 1054 (i) An application for reinstatement in a form prescribed by the Board;
- 1055 (ii) A reinstatement fee set by the Board pursuant to Article XI; and
- 1056 (iii) An affidavit from the current employing entity as prescribed in paragraph (a)(iv).

1057 (h) A lawyer under this rule who fails to register days shall be:

- 1058 (i) Subject to professional discipline in this jurisdiction;
- 1059 (ii) Ineligible for admission pursuant to Article V of this rule;
- 1060 (iii) Referred by the Board to the Board of Professional Responsibility; and
- 1061 (iv) Referred by the Board to the disciplinary authority of the jurisdictions of
1062 licensure.

1063 (i) A lawyer's rendering of service to the lawyer's employer prior to timely registration under
1064 this Rule shall not constitute the unauthorized practice of law or otherwise be treated as violating
1065 Tenn. Sup. Ct. R. 8, RPC 5.5 as long as the service are permitted under this Rule for registered
1066 lawyers and the lawyer files the application for registration under Section 10.01(a) of this Rule
1067 within 180 days of the commencement of the lawyer's employment.

1068 (j) A lawyer seeking to practice in this State under the authority of Tenn. Sup. Ct. R. 8, RPC
1069 5.5(d)(1) and who complies fully with the requirements of this Rule on or before **[insert date**
1070 **that is 180 days from enactment]** shall not be barred from registration under this Rule,
1071 admission pursuant to Article V of this Rule, or from practicing under the authority of RPC
1072 5.5(d)(1) solely by the fact of prior noncompliance with Tennessee law concerning licensure of
1073 in-house counsel.

1074 [Amended by order filed October 23, 2009, effective January 1, 2010; and amended by order
1075 filed January 18, 2012.]

1076 **Sec. 10.02. Attorneys in Clinical and Related Law School Programs.**

1077 (a) An attorney who is enrolled or employed in a clinical program in an approved Tennessee law
1078 school or who, after graduation from an approved law school, is employed by or associated with
1079 an organized legal services program operated by an approved Tennessee law school providing
1080 legal assistance to indigents in civil or criminal matters, and who is a member of a court of last
1081 resort of another state (the term "state" including Territories and the District of Columbia) shall
1082 be admitted to practice before the courts of this State in all causes in which that attorney is
1083 associated with a legal clinic operated in conjunction with an approved law school. Admission to
1084 practice under this Rule shall be limited to the above causes and shall become effective upon
1085 filing with the Board:

- 1086 (i) A certificate of any court of last resort certifying that the attorney is a member in
1087 good standing at the bar of that court; and
- 1088 (ii) A statement signed by the Dean of the law school that the attorney is enrolled or
1089 employed in a clinical program in an approved Tennessee law school.
- 1090 (b) When the above requirements are met to the satisfaction of the Board, it shall grant admission
1091 to practice to the applicant and shall certify such by letter to the applicant.
- 1092 (c) Admission to practice under the Rule shall cease to be effective whenever the attorney ceases
1093 to be enrolled in or associated with such program. When an attorney admitted under this Rule
1094 ceases to be so enrolled or associated, a statement to that effect shall be filed with the Board by
1095 a representative of the law school or legal services program. In no event shall admission to
1096 practice under this Rule remain in effect longer than 2 years for any individual admitted under
1097 this Rule, except in the discretion of The Supreme Court in special situations for good cause
1098 shown. Attorneys who wish to continue to practice in the State must seek admission under
1099 Article III (by examination) or Article V (without examination) of this Rule so that they are
1100 eligible for licensing prior to the expiration of the two year period. Time in practice pursuant to
1101 this provision will count as "active practice of law" for purposes of admission pursuant to Article
1102 V (without examination) of this Rule.
- 1103 (d) Attorneys admitted to practice under this Rule may be suspended from practice in the manner
1104 now or hereafter provided by Rule for the suspension or disbarment of attorneys.

1105 **Sec. 10.03. Law Student Practice**

- 1106 (a) Any law student who has successfully completed one-half of the legal studies required for
1107 graduation from any school of law from which a graduate is eligible under this rule to take the
1108 Tennessee bar examination may, with the written approval of The Supreme Court of Tennessee,
1109 provide legal services to, and/or may appear in any municipal, county, or state court on behalf of,
1110 any person or entity financially unable to afford counsel or on behalf of the state of Tennessee or
1111 of any municipal or county government; provided, however, that the law student is participating
1112 in a law school clinical program, furnishing assistance through a legal aid program, or serving as
1113 an assistant to a District Attorney, Public Defender, the State's Attorney General, the general
1114 counsel of any state agency, or a county or municipal legal director's office, and that the law
1115 student is under the immediate and personal supervision of a member of the law school's faculty,
1116 a licensed legal aid attorney, a District Public Defender or designated Assistant District Attorney
1117 General, a District Public Defender or designate Assistant District Public Defender, the Attorney
1118 General of Tennessee or any assistant in his or her office, the general counsel of any state agency
1119 or any staff attorney in his or her office, or the director of a county or municipal legal office or
1120 designated staff attorney.
- 1121 (b) Before any student shall be eligible to provide legal services and/or appear in court under this
1122 rule, the dean of the approved law school or the director of the law school clinical program shall
1123 file with The Supreme Court of Tennessee for its approval a list of students who are eligible for

1124 certification under this Rule and certify to The Supreme Court that such students meet the
1125 requirements of this Rule. Upon written approval by The Supreme Court of Tennessee of such
1126 students so selected and certified, such approved students shall be and are thereby authorized to
1127 provide legal services and/or appear in any municipal, county or state court on behalf of any
1128 person or entity financially unable to afford counsel, the state of Tennessee, or any municipality
1129 or county in the State of Tennessee in a manner consistent with the requirements of this rule.

1130 (c) The Board shall approve a law school's clinical program and shall certify such approval to
1131 The Supreme Court of the State of Tennessee as a prerequisite for the approval of law students
1132 who are practicing under this Rule in a clinical setting. The criteria for approval shall be:

- 1133 (i) that the law school itself is approved under the foregoing sections of this Rule;
1134 (ii) that if the law school has an in-house legal clinic which directly represents clients,
1135 that the program has a full-time faculty member as director, who is an attorney
1136 licensed to practice law in Tennessee; and
1137 (iii) that the law school clinical program is otherwise operated in a manner consistent
1138 with the requirements of this rule.

1139 Certification of approval of such law school clinical program may be withdrawn by the Board if
1140 the same ceases to meet this criterion.

1141 (d) In the case of students working in a legal aid office, a Public Defender's Office, District
1142 Attorney's office, the office of the Attorney General of Tennessee, the office of the general
1143 counsel of any state agency, or the office of a municipal or county legal director, it shall be the
1144 responsibility of the director of clinical education or the dean of the law school to transmit to the
1145 legal aid office, Public Defender's Office, District Attorney's office, office of the Attorney
1146 General of Tennessee, office of the general counsel of any state agency, or the office of the
1147 municipal or county legal director the names of the students who are certified under this Rule.

1148 (e) The written approval of such students by The Supreme Court of Tennessee shall be and
1149 remain in force and effect until the student graduates from law school or ceases to be enrolled in
1150 the law school.

1151 **Explanatory Comments.**

1152 (1) The purpose of this Rule is educational; consequently, its focus is on providing opportunities
1153 for students to further their legal studies through properly supervised experiential education.
1154 Interpretation of this Rule should be in accordance with its educational goal.

1155 (2) The term "approved law school" refers to any law school in the state of Tennessee that has
1156 been accredited by the ABA or any law school in the state of Tennessee approved under Rule 7 §
1157 2.03 of this Court.

1158 (3) In order to provide consistency between three and four year law school programs, the Rule
1159 allows for certification of a student who has completed at least half of his or her law school
1160 studies. At a four year law school, a student is eligible for certification under this Rule after

1161 successful completion of two years of law school, while at a three year law school, a student is
1162 eligible after successful completion of three semesters.

1163 (4) The term “provide legal services” is to be construed broadly, so as to allow a law student who
1164 is admitted under this Rule to provide any and all services that could be provided by a licensed
1165 attorney. Students admitted under this Rule may also appear in capacities such as guardian ad
1166 litem where the person whose interests are represented would qualify for appointed counsel.

1167 (5) Students shall be personally and directly supervised by a clinical faculty member or legal aid
1168 lawyer, public defender, district attorney, assistant Attorney General, staff attorney for a state
1169 agency or staff attorney at a metropolitan legal office when appearing in court or tribunal;
1170 however, it is not necessary that the licensed attorney be personally present when the student
1171 engages in other activities such as interviewing, investigation and negotiation. It is, however, the
1172 responsibility of the licensed attorney to ensure that the student is properly supervised and
1173 instructed, including compliance with Rule of Professional Conduct 5.3.

1174 (6) “Person or entity financially unable to afford counsel” includes all persons who would be
1175 termed “indigent” by a legal aid provider, all persons whom any court deems eligible for the
1176 appointment of counsel, as well as persons and organizations who have unsuccessfully attempted
1177 to secure legal counsel or who can otherwise demonstrate to the satisfaction of the clinic director
1178 that they cannot reasonably afford counsel . The term also encompasses any organization which
1179 is composed of a majority of persons who meet the federal definition of “indigency” as well as
1180 any not-for profit organization the purpose of which is to assist “indigent” persons.

1181 (7) When the dean or director of clinical education certifies to the court that a student has met the
1182 conditions for admission under this Rule, the dean or director is certifying that the student is in
1183 good standing and has successfully completed sufficient credit hours to satisfy the minimum
1184 requirements for the second half of law school. A student will be deemed to have successfully
1185 completed the requisite amount of credits when he or she has been deemed to have passed (rather
1186 than simply have completed) sufficient courses.

1187 (8) A law school clinical program includes a live-client clinic within the law school, an
1188 externship program operated by the law school - regardless whether it is a part of the legal clinic-
1189 or any other law school credit-bearing activity that involves the representation of clients.

1190 (9) A student may be certified under this Rule and represent clients under the provisions of this
1191 Rule when working at a legal aid office, district attorney’s office, public defender’s office, office
1192 of the Attorney General of Tennessee, office of the general counsel of any state agency or the
1193 office of the director of a municipal or county law department whether or not the student is
1194 receiving law school credit for that work. It is the responsibility of the dean or clinic director at
1195 the school at which the student is enrolled to ensure that the supervision provided by the legal aid
1196 office, public defender, district attorney, Attorney General, general counsel of a state agency or
1197 Metropolitan Legal office is adequate under the Rule.

1198 (10) The terms director of a municipal or county law office or director of a municipal of county
1199 law department presume an office within the county or municipality which represents the county
1200 or municipality. For such an office to be recognized under this Rule, there must be at least one
1201 attorney in that office whose full-time employment is as the attorney for the municipality or
1202 county.

1203 [Amended by order filed June 5, 2006.]

1204 **Explanatory Comment [2008].**

1205 Subsection 10.03(a) is amended so that, to be eligible to provide legal services under this section,
1206 a law student is no longer required to attend a law school located in the state of Tennessee.
1207 Rather the amendment extends the provisions of this section to students enrolled in any law
1208 school from which a graduate would be eligible to take the Tennessee Bar Examination.

1209 **Sec. 10.04 Practice before Admission by Examination.**

1210 (a) **Eligibility.**

1211 (i) An applicant may register with the Board in order to perform the services described in
1212 paragraph (c) of this Rule provided the applicant:

1213 (1) has never been licensed to practice law in in another state in the United States or U.S.
1214 Territories,

1215 (2) has submitted an application pursuant to Section 3.03 of this Rule,

1216 (3) meets the educational requirements of Section 2.01 of this Rule,

1217 (4) is working in Tennessee under the supervision of a licensed Tennessee attorney, and

1218 (5) has:

1219 (A) not yet had an opportunity to take the Tennessee bar examination;

1220 (B) taken the examination but not yet received notification of the results of the
1221 examination; or

1222 (C) taken the examination, but has not yet been admitted as a member of the
1223 Tennessee bar.

1224 (ii) **Applicants licensed in another jurisdiction.** An applicant who is licensed in another
1225 jurisdiction and seeking admission by examination pursuant to Article III or without
1226 examination pursuant to Article V of this Rule, may practice as provided in Section 5.01(g)
1227 of this Rule.

1228 (iii) An applicant is eligible for supervised practice beginning with the submission of the
1229 first Application to the Bar of Tennessee by examination. The privilege to engage in
1230 supervised practice expires on the date of the admissions ceremony for successful
1231 examination applicants, grade release for unsuccessful applicants, or issuance of an Order to
1232 Show Cause.

1233 (iv) Applicants who are unsuccessful on the examination may register for supervised
1234 practice upon submitting an application for the next available exam.

1235 (v) In no event shall the privilege to engage in supervised practice continue for more than
1236 sixteen (16) months from the date of an applicant's first Application for Admission. The

1237 Board shall have no discretion to extend the time an applicant may engage in limited
1238 practice.

1239 (b) **Registration Process.** In order to perform the services described in paragraph (c), the
1240 applicant must have submitted to the Board the NCBE application, completed the Tennessee
1241 Supplemental application process and paid the fees associated with the application. Additionally,
1242 the applicant must have registered for supervised practice according to the procedures
1243 established by the Board and paid the required fee. The Applicant must include with the
1244 registration an affidavit from an attorney licensed and in good standing in Tennessee stating that
1245 the attorney agrees to undertake the supervision of the applicant in accordance with this Rule.

1246 (c) **Services Permitted.** Under the supervision of a member of the bar of this State, and with
1247 the written consent of the person on whose behalf the applicant is acting, an applicant approved
1248 for supervised practice may render the following services:

1249 (i) Applicant may counsel and advise clients, negotiate in the settlement of claims, represent
1250 clients in mediation and other non-litigation matters, and engage in the preparation and
1251 drafting of legal instruments. Any communication other than internal communications may
1252 be signed by the Applicant with the accompanying designation "Tennessee Bar Applicant"
1253 but must also be signed by the supervising member of the bar.

1254 (ii) Applicant may appear in the trial courts, courts of review and administrative tribunals of
1255 this state, including court-annexed arbitration and mediation, subject to the following
1256 qualifications:

1257 1) Written consent to representation of the person on whose behalf the applicant is
1258 acting shall be filed in the case and brought to the attention of the judge or presiding
1259 officer.

1260 2) Appearances, pleadings, motions, and other documents to be filed with the court may
1261 be prepared by the applicant and may be signed with the accompanying designation
1262 "Tennessee Bar Applicant."

1263 3) In criminal cases, in which the penalty may be imprisonment, in proceedings
1264 challenging sentences of imprisonment, and in civil or criminal contempt proceedings,
1265 the applicant may participate in pretrial, trial, and post-trial proceedings as an assistant of
1266 the supervising member of the bar, who shall be present and responsible for the conduct
1267 of the proceedings.

1268 4) In all other civil and criminal cases in the trial courts or administrative tribunals, the
1269 applicant may conduct all pretrial, trial, and post-trial proceedings with the supervising
1270 attorney present unless the applicant is permitted by the judge or presiding officer
1271 participate without direct supervision.

1272 5) In matters before appellate courts, the applicant may prepare briefs, excerpts from
1273 record, abstracts, and other documents. If any such filings set forth the name of the
1274 applicant as a counsel of record in addition to the supervising member of the bar, the

1275 name of the applicant must be accompanied by the designation "Tennessee Bar
1276 Applicant" but must be filed in the name of the supervising member of the bar. Upon
1277 motion by the supervising member of the bar, the applicant may request authorization to
1278 argue the matter before the appellate court but, even if the applicant is permitted to argue,
1279 the supervising member of the bar must be present and responsible for the conduct of the
1280 applicant at the hearing.

1281 (d) **Compensation.** An applicant rendering services authorized by this rule shall not request or
1282 accept any compensation from the person for whom applicant renders the services. The
1283 supervising attorney may make an appropriate charge. The applicant may be compensated as an
1284 employee of a firm, agency, clinic or other organization so long as the rate of such compensation
1285 is established independent of compensation paid for representation.

1286 (e) Any applicant who otherwise meets all the qualifications contemplated in this Rule, but who
1287 is unable to make a connection or association with a practicing attorney for purposes of serving
1288 as a supervising attorney as required by this Rule may make application to any trial judge
1289 holding court in the county of such applicant's residence for aid in the establishment of a
1290 supervised practice under this Rule. Trial judges are admonished that such practice must accord
1291 strictly with the provisions of this Rule. No deviation will be permitted.

1292 **Sec. 10.05. Conditional Admission.**

1293 An applicant whose previous conduct or behavior would or might result in a denial of admission
1294 may be conditionally admitted to the practice of law upon a showing of sufficient rehabilitation
1295 and/or mitigating circumstances. The Board shall recommend relevant conditions relative to the
1296 conduct or the cause of such conduct with which the applicant must comply during the period of
1297 conditional admission.

1298 (a) **Conditions.** The Board may recommend that an applicant's admission be conditioned on the
1299 applicant's complying with conditions that are designed to detect behavior that could render the
1300 applicant unfit to practice law and to protect the clients and the public, such as submitting to
1301 alcohol, drug, or mental health treatment; medical, psychological, or psychiatric care;
1302 participation in group therapy or support; random chemical screening; office practice or debt
1303 management counseling; and monitoring, supervision; mentoring or other conditions deemed
1304 appropriate by the Board . The conditions shall be tailored to detect recurrence of the conduct or
1305 behavior which could render an applicant unfit to practice law or pose a risk to clients or the
1306 public and to encourage continued abstinence, treatment, or other support. The conditions should
1307 be established on the basis of clinical or other appropriate evaluations, take into consideration the
1308 recommendations of qualified professionals, when appropriate, and protect the privacy interests
1309 of the conditionally admitted lawyer to professional treatment records to the extent possible. The
1310 terms shall be set forth in a confidential order (the "Conditional Admission Order"). The
1311 Conditional Admission Order shall be made a part of the conditionally admitted lawyer's
1312 application file and shall remain confidential, except as provided in this and any other applicable
1313 rules. The Board shall issue the Temporary Certificate of Eligibility for Admission pursuant to

1314 Sec. 9.01 upon completion of the registration process after issuance of the Conditional
1315 Admission Order. The Board of Law Examiners shall have no further authority over the
1316 conditionally admitted lawyer once such lawyer obtains a license to practice law.

1317 **(b) Notification to the Board of Professional Responsibility.** Immediately upon issuance of a
1318 Conditional Admission Order, the Board of Law Examiners shall transmit a copy of the order to
1319 the Board of Professional Responsibility. If the Board of Professional Responsibility or any other
1320 jurisdiction's disciplinary authority receives a complaint alleging unprofessional conduct by the
1321 conditionally admitted lawyer, or if the Monitoring Authority designated pursuant to paragraph
1322 (d) notifies the Board of Professional Responsibility of substantial noncompliance with the
1323 Conditional Admission Order, the Board of Professional Responsibility shall request a copy of
1324 relevant portions of the lawyer's bar application file, and the Board of Law Examiners shall
1325 promptly provide the requested materials to the Board of Professional Responsibility.

1326 **(c) Length of Conditional Admission.** The conditional admission period shall be set in the
1327 Conditional Admission Order, but shall not exceed sixty (60) months, unless notification of
1328 substantial noncompliance with the Conditional Admission Order has been received by the
1329 Board of Professional Responsibility or a complaint of unprofessional conduct has been made
1330 against the conditionally admitted lawyer with the Board of Professional Responsibility or any
1331 other lawyer disciplinary authority.

1332 **(d) Compliance with Conditional Admission Order.** During the conditional admission period,
1333 the Monitoring Authority shall be the Tennessee Lawyers Assistance Program. The Tennessee
1334 Lawyers Assistance Program shall take such action as is necessary to monitor compliance with
1335 the terms of the Conditional Admission Order, including, but not limited to, requiring that the
1336 conditionally admitted lawyer submit written verification of compliance with the conditions,
1337 appear before the Tennessee Lawyers Assistance Program monitor, and provide information
1338 requested by the monitor or the Tennessee Lawyers Assistance Program.

1339 **(e) Costs of Conditional Admission.** The applicant shall be responsible for any direct costs of
1340 investigation, testing and monitoring. Other costs shall be borne in accord with this or any other
1341 applicable Supreme Court Rule.

1342 **(f) Failure to Fulfill the Terms of Conditional Admission.** Failure of a conditionally admitted
1343 lawyer to fulfill the terms of a Conditional Admission Order may result in a modification of the
1344 Order that may include extension of the period of conditional admission, suspension or
1345 revocation of the Conditional Admission Order or such other action as may be appropriate under
1346 Supreme Court Rule 9, including temporary suspension pursuant to Supreme Court Rule 9, §
1347 12.3. The Tennessee Lawyers Assistance Program shall promptly notify the Board of
1348 Professional Responsibility whenever it determines that the conditionally admitted lawyer is in
1349 substantial noncompliance with the terms of the Conditional Admission Order. Notification of
1350 such failure by the Tennessee Lawyers Assistance Program shall automatically extend the
1351 conditional admission until disposition of the matter by the Board of Professional Responsibility
1352 and any resulting appeals.

1353 (g) **Violation of Conditional Admission Order.** The Board of Professional Responsibility shall
1354 initiate proceedings to determine whether the conditional admission should be revoked, extended
1355 or modified by filing a petition to review conditional admission. Consideration and disposition of
1356 any such petition shall follow the procedure for formal proceedings as set forth in Tenn. Sup. Ct.
1357 R. 9; however, the only issue to be determined is whether the conditional admission should be
1358 revoked, extended or modified. Any decision to extend or modify the Conditional Admission
1359 Order must be made in consultation with the Tennessee Lawyers Assistance Programs. If the
1360 conditionally admitted attorney was temporarily suspended due to substantial noncompliance
1361 with a monitoring agreement, any disposition of the petition to review conditional admission
1362 may include dissolution of the temporary suspension.

1363 (h) **Expiration of Conditional Admission Order.** Unless the Conditional Admission Order is
1364 revoked or extended as provided herein, upon completion of the period of conditional admission,
1365 the conditions imposed by the Conditional Admission Order shall expire. The Tennessee
1366 Lawyers Assistance Program shall notify the Board of Professional Responsibility of such
1367 expiration.

1368 (i) **Confidentiality.** Except as otherwise provided herein, and unless The Supreme Court orders
1369 otherwise, the fact that an individual is conditionally admitted and the terms of the Conditional
1370 Admission Order shall be confidential provided that the applicant shall disclose the entry of any
1371 Conditional Admission Order to the admissions authority in any jurisdiction where the applicant
1372 applies for admission to practice law. In addition to ensuring that the relevant records of the
1373 Board of Law Examiners, the Board of Professional Responsibility and the Tennessee Lawyers
1374 Assistance Program are confidential, the Board shall use reasonable efforts to structure the terms
1375 and conditions of the conditional admission so that the conditional admission does not pose a
1376 significant risk to confidentiality. These provisions for confidentiality shall not prohibit or
1377 restrict the ability of the applicant to disclose to third parties that the applicant has been
1378 conditionally admitted under this Rule, nor prohibit requiring third-party verification of
1379 compliance with the terms of the Conditional Admission Order by admission authorities in
1380 jurisdictions to which the conditionally admitted lawyer may subsequently apply.

1381 (j) **Education.** The Board shall make information about its conditional admission process
1382 publicly available and shall reasonably cooperate with the Tennessee Lawyers Assistance
1383 Program in its efforts to educate law students, law school administrators and applicants for bar
1384 admission regarding the nature and extent of chemical abuse, dependency, and mental health
1385 concerns that affect law students and lawyers.

1386 (k) **Disciplinary Complaints.** The provisions of this rule shall not affect the authority of the
1387 Board of Professional Responsibility, pursuant to Tenn. Sup. Ct. R. 9, to investigate a complaint
1388 filed against a conditionally admitted lawyer by a person or entity other than the Tennessee
1389 Lawyers Assistance Program, to recommend a disposition of such complaint pursuant to Tenn.
1390 Sup. Ct. R. 9, § 8.1, or to initiate a formal disciplinary proceeding as to such complaint, pursuant
1391 to Tenn. Sup. Ct. R. 9, § 8.2.

1392 [Section 10.05 amended by Order filed September 3, 2009]

1393 **Sec. 10.06. Temporary License of Spouse of a Military Servicemember**

1394 (a) **Qualifications.** An applicant who meets all of the following requirements listed in (i)
1395 through (xii) below may be temporarily licensed and admitted to the practice of law in
1396 Tennessee, upon approval of the Board. Applicant:

1397 (i) is the spouse of an active duty servicemember of the United States Uniformed Services as
1398 defined by the Department of Defense and that servicemember is on military orders stationed
1399 in the State of Tennessee or Fort Campbell, Kentucky;

1400 (ii) has been licensed and admitted by examination to practice law before the court of last
1401 resort in at least one other jurisdiction of the United States;

1402 (iii) meets the educational requirements of Section 2.01 and 2.02 of this Rule;

1403 (iv) has achieved a passing score on the Multistate Professional Responsibility Examination
1404 as it is established in Tennessee at the time of application;

1405 (v) is currently an active member in good standing in every jurisdiction to which the
1406 applicant has been admitted to practice, or has resigned or been administratively revoked
1407 while in good standing from every jurisdiction without any pending disciplinary actions;

1408 (vi) is not currently subject to lawyer discipline in any other jurisdiction;

1409 (vii) possesses the moral character and fitness required of all applicants for admission and
1410 licensing in this State;

1411 (viii) is physically residing in Tennessee or Fort Campbell, Kentucky, due to the
1412 servicemember's military orders;

1413 (ix) has completed fifteen (15) hours of instruction approved by the Tennessee Continuing
1414 Legal Education Board on Tennessee substantive and/or procedural law, including three (3)
1415 hours of ethics, within the six-month period immediately preceding or following the filing of
1416 the applicant's application;

1417 (x) has never failed the Tennessee bar examination;

1418 (xi) certifies that he or she has read and is familiar with the Tennessee Rules of Professional
1419 Conduct; and

1420 (xii) has paid such fees as may be set by the Board.

1421 (b) **Application Requirements.** Any applicant seeking a temporary license under this Section to
1422 practice law in Tennessee shall:

1423 (i) file an application for Temporary License for Servicemember's Spouse and an
1424 application for character investigation, including all required supporting documents, in the
1425 manner established by the Board;

1426 (ii) submit a copy of the applicant's Military Spouse Dependent Identification and

- 1427 documentation evidencing a spousal relationship with the servicemember;
- 1428 (iii) provide a copy of the servicemember's military orders to a military installation in
1429 Tennessee or Fort Campbell, Kentucky, or a letter from the servicemember's command
1430 verifying that the requirement in Paragraph (a)(vii) of this Section is met;
- 1431 (iv) submit Certificate(s) of Good Standing from the highest court of each state to which
1432 applicant has been admitted and Disciplinary History(ies) to demonstrate satisfaction of the
1433 requirements of Paragraph (a)(iv) of this Section;
- 1434 (v) associate Local Counsel as set forth in Paragraph (c) of this Section, below;
- 1435 (vi) certify compliance with the Continuing Legal Education requirement in Paragraph
1436 (a)(ix) of this Section; and
- 1437 (vii) pay the fee established pursuant to Section 11.01 of this Rule.
- 1438 (c) **Supervision of Local Counsel.** A person applying for a Temporary License under this Rule
1439 may engage in the practice of law in this jurisdiction only under the supervision and direction
1440 of Local Counsel.
- 1441 (i) As used in this Rule, Local Counsel means an active member in good standing of the
1442 Tennessee Bar, whose office is located in Tennessee.
- 1443 (ii) Local Counsel must provide to the Board his or her Tennessee Bar number, physical
1444 office address, mailing address, email address, telephone number, and written consent to
1445 serve as Local Counsel, on the form provided by the Board of Bar Examiners.
- 1446 (iii) Unless specifically excused from attendance by the trial judge, Local Counsel shall
1447 personally appear with the temporarily admitted attorney on all matters before the court.
- 1448 (iv) Local Counsel will be responsible to the courts, the Board of Professional
1449 Responsibility, The Supreme Court of Tennessee, and the client for all services provided by
1450 the temporarily admitted attorney pursuant to this Rule.
- 1451 (v) Local Counsel is obligated to notify the Executive Director of the Board and the Board
1452 of Professional Responsibility when the supervising relationship between the attorney
1453 holding the Temporary License and Local Counsel is terminated.
- 1454 (d) **Issuance, Renewal and Subsequent Application.**
- 1455 (i) Issuance. Upon approval and certification by the Board, the applicant for temporary
1456 license shall, upon registration and payment of applicable dues and taking the oath of
1457 admission as set forth in Sections 9.01 and 9.02 of this Rule, become a member of the
1458 Tennessee Bar. An attorney temporarily licensed pursuant to this Rule shall be subject to the
1459 same membership obligations, including payment of dues and continuing legal education
1460 requirements, as other active members of the Tennessee Bar, and all legal services provided
1461 in Tennessee by a lawyer licensed and admitted pursuant to this Rule shall be deemed the
1462 practice of law and shall subject the attorney to all rules governing the practice of law in
1463 Tennessee, including the Tennessee Rules of Professional Conduct. The original term of the

1464 license is one year.

1465 (ii) Duration and Renewal.

1466 1) Persons who hold a temporary license under this provision may apply for a one year
1467 extension to their license upon filing of an application for extension with the Board. The
1468 application for extension must include sworn verification that the temporarily licensed
1469 attorney continues to meet all of the qualifications for temporary license as set forth in
1470 Paragraphs (a), (b) and (c) of this Section, and include the required fee for the
1471 application. Requests for extension must be submitted to the Board at least one month
1472 prior to the expiration of the temporary license. Requests for extension must be
1473 approved by the Board and The Supreme Court to be effective.

1474 2) When the active duty servicemember is assigned to an unaccompanied or remote
1475 follow-on assignment and the temporarily licensed attorney continues to physically
1476 reside in Tennessee, the temporary license may be renewed until that unaccompanied or
1477 remote assignment ends, provided that the attorney complies with the other requirements
1478 for renewal.

1479 3) Subsequent Applications. A temporarily licensed attorney who wishes to become a
1480 permanent member of the Bar of Tennessee may apply for admission under Article III
1481 (by examination) or Article V (without examination) of this Rule for the standard
1482 application fee minus the application fee paid to the Board for the application for
1483 temporary license, not including any fees for requests for extension or background
1484 investigation fees. The requirement for a background investigation will be waived if the
1485 application for admission is submitted within two years of the original Application for
1486 Temporary License.

1487 (e) Termination.

1488 (i) Event of Termination. An attorney's temporary license to practice law pursuant to this
1489 Rule shall immediately terminate and the attorney shall immediately cease all activities under
1490 this Rule upon the occurrence of any of the following:

- 1491 1) the spouse's discharge, separation or retirement from active duty in the United States
1492 Uniformed Services, or the spouse's no longer being on military orders stationed in the
1493 State of Tennessee or Fort Campbell, Kentucky, except as provided in Paragraph (d)(2)(ii)
1494 of this Section;
- 1495 2) failure of the temporary attorney to meet any licensing requirements applicable to all
1496 active attorneys possessing a license to practice law in this state, including failure to submit
1497 a timely application to renew the temporary license;
- 1498 3) the absence of supervision by Local Counsel;
- 1499 4) the attorney no longer physically residing within the State of Tennessee or at Fort
1500 Campbell, Kentucky;
- 1501 5) the request of the temporary attorney;

- 1502 6) the issuance to the temporary attorney of a Tennessee license under Article III (by
1503 examination) or Article V (without examination) of this Rule;
- 1504 7) the temporarily licensed attorney receiving a failing score on the Tennessee bar
1505 examination; or
- 1506 8) the suspension, disbarment or other action affecting the temporarily licensed attorney's
1507 good standing with the bar of Tennessee or any other jurisdiction in the United States in
1508 which the temporarily licensed attorney is licensed.

1509 (ii) Notices Required.

1510 1) An attorney temporarily licensed under this Rule shall provide written notice to this
1511 Board and the Board of Professional Responsibility of any Event of Termination within
1512 thirty (30) days of the occurrence thereof;

1513 2) Within thirty (30) days of the occurrence of any Event of Termination, the temporarily
1514 licensed attorney shall:

1515 (a) provide written notice to all his or her clients that he or she can no longer represent
1516 such clients and furnish proof to this Board and the Board of Professional Responsibility
1517 within forty-five (45) days of such notification; and

1518 (b) file in each matter pending before any court or tribunal in this State a notice that the
1519 attorney will no longer be involved in the matter, which shall include the substitution of
1520 the Local Counsel, or such other attorney licensed to practice law in Tennessee selected
1521 by the client, as counsel in the place of the temporarily licensed attorney.

1522 **ARTICLE XI. FEES**

1523 **Sec. 11.01. Schedule of Fees.**

1524 The Board shall adopt, from time to time, a schedule of fees to be paid by applicants. No fee
1525 shall be charged without the approval of The Supreme Court.

1526 **Sec. 11.02. Payment Mandatory.**

1527 No step in the admissions process may be taken except upon the payment of the fees required for
1528 that step. No license will be issued until all fees due from the applicant have been paid.

1529 **Sec. 11.03. Refunds.**

1530 Fees are non-transferable and non-refundable, except that ½ the fee for examination or re-
1531 examination, not including any other fee, may be refunded if applicant withdraws from the exam
1532 by February 15 for the February examination and July 15 for the July examination.

1533

1534 **ARTICLE XII. ORGANIZATION AND POWERS OF BOARD**

1535 **Sec. 12.01. Composition of Board and Term.**

1536 The Board shall consist of five attorneys licensed to practice law in this State and in good
1537 standing. The Board members shall be appointed to three-year terms by The Supreme Court. No
1538 member who has served three successive three-year terms shall be eligible for reappointment to
1539 the Board until three years after the termination of the most recent term.

1540 [Amended by order filed November 15, 2013]

1541 **Sec. 12.02. Officers and Allocation of Responsibilities.**

1542 The officers of the Board shall consist of a President, a Vice President and a Secretary-Treasurer.
1543 The Board may, however, allocate responsibilities not requiring formal action, as it deems
1544 appropriate, on an informal basis.

1545 **Sec. 12.03. Official Seal.**

1546 The Board shall use a seal of office containing the following words: "STATE OF TENNESSEE
1547 BOARD OF LAW EXAMINERS."

1548 **Sec. 12.04. Formal Actions; Quorum.**

1549 (a) Denial of an application to take the examination, or denial of a license, or the adoption of
1550 Board policies and rules shall be taken only on formal action concurred in by at least three
1551 members of the Board, expressed in an order.

1552 (b) Three (3) members of the Board shall constitute a quorum.

1553 (c) Preliminary approval to take the examination may be given and any other informal action
1554 may be taken by any member of the Board.

1555 [Amended by order filed March 14, 2002.]

1556 **Sec. 12.05. Policy and Procedure of the Board.**

1557 (a) The Board shall have the power to adopt such statements of policy and procedure as it may
1558 deem necessary or expedient, not inconsistent with the rules of The Supreme Court. Upon
1559 adoption by the Board, the Executive Director shall provide a copy of the policy or procedure to
1560 the Court for approval.

1561 (b) All such statements of policy and procedure shall be maintained by the Executive Director
1562 as the Board's Statement of Policy and Procedure . The and shall be open to public inspection.
1563 The Board shall take reasonably appropriate steps to assure that applicants are given the
1564 opportunity to become familiar with the Board's Statement of Policy and Procedure, as well as
1565 with this Rule.

1566 **Sec. 12.06. Docket of Proceedings.**

1567 The Executive Director shall maintain a docket of all proceedings before the Board in which
1568 formal action of the Board is taken, or a hearing is held with respect to any application for
1569 admission.

1570 **Sec. 12.07. Appointment and Duties of Executive Director**

1571 The Supreme Court shall appoint an Executive Director of the Board, who shall serve at the
1572 pleasure of the Court. Following his or her appointment by the Court, the Executive Director
1573 shall report to the Board, which shall conduct regular performance evaluations of the Executive
1574 Director and report such evaluations to the Court. The Executive Director shall be responsible
1575 for all administrative duties in the enforcement of this Rule, including, but not limited to,
1576 investigation of the character of applicants, investigation of schools, preliminary review of
1577 applications, making arrangements for the giving of examinations, keeping books, records and
1578 files, and such other responsibilities as may be delegated or directed by the Board.

1579 **Sec. 12.08. Secretarial Assistance.**

1580 The Executive Director may employ such full or part-time secretarial and other office assistance
1581 as he or she may deem appropriate.

1582 **Sec. 12.09. Assistants to the Board.**

1583 The Supreme Court may appoint attorneys licensed to practice law in this State and in good
1584 standing to assist in the preparation and grading of examination questions, and to perform such
1585 other duties in the enforcement of this Rule as the Board may from time to time direct. The
1586 assistants shall serve staggered terms of five (5) years, and may be reappointed to serve a second
1587 five-year term, provided that shorter terms may be designated initially by the Court where
1588 necessary to observe the above rotation practices.

1589 **Sec. 12.10. Salaries.**

1590 Subject to budgetary limitations, the Board shall fix the salary of the Executive Director, of
1591 attorney assistants and employees of the Board.

1592 **Sec. 12.11. Confidentiality of Board Records and Files.**

1593 Applications for admission, examination papers and grades, and all investigative records of the
1594 Board, including but not limited to, correspondence and/or electronic transmissions to and from
1595 the Board, its members and staff, minutes of Board meetings and its deliberations and all
1596 documents, communications and proceedings prepared in connection with evaluations or
1597 investigations of law schools under Rule 7, §§ 2.03, 2.07, 2.08, 2.09, 2.10, 2.11, 2.12, and 2.15,
1598 whether in paper or electronic form, shall be treated as confidential and shall not be open to
1599 inspection by members of the public without written application to and authorization by an
1600 appropriate order of The Supreme Court. Statistical information not identified with any particular

1601 applicant and information relating to whether and when an applicant has been admitted may be
1602 released to any person. The Board is authorized to release information which would otherwise be
1603 confidential to the licensing, disciplinary or law enforcement agencies of any jurisdiction, the
1604 Tennessee Lawyers Assistance Program, the Board of Professional Responsibility, and to the
1605 National Conference of Bar Examiners. Notwithstanding the provisions above, completion of an
1606 Application to the Bar of Tennessee constitutes Applicant's permission allowing the Board to release
1607 Applicant's name, address and email address to Bar and professional legal associations in Tennessee, as
1608 approved by the Board, and, for applications for admission by examination, Applicant's name and exam
1609 result to the law school from which Applicant graduated.

1610 [Amended by order filed December 15, 2000, effective January 13, 2001, and by order filed
1611 August 31, 2004.]

1612 **Sec. 12.12. No Power to Waive or Modify Rule of The Supreme Court.**

1613 Except as expressly provided in this Rule, the Board has no power to waive or modify any
1614 provision of this Rule.

1615 **Sec. 12.13. Subpoena Power.**

1616 The Board and each member thereof are vested with the power to issue subpoenas for witnesses,
1617 to compel their attendance, and to compel the production of books, records and documents, to
1618 administer oaths to witnesses and to compel witnesses to give testimony under oath, and to have
1619 and exercise all other power and authority conferred by the laws of this State and the rules of The
1620 Supreme Court upon Commissioners or upon Special Masters of this Court. Said subpoenas shall
1621 in each instance be attested by one of the Clerks of this Court. Subpoenas shall be issued and
1622 enforced in accordance with the provisions of Title 24, Tenn. Code Ann., as in the case of
1623 Commissioners authorized to take depositions.

1624 **Sec. 12.14. Counsel for Board.**

1625 (a) The Board is authorized to request any of the attorney assistants to the Board to act as
1626 counsel, or to request the State or any local bar association to furnish counsel, to assist the Board
1627 in investigations, preparation for hearings, or the conduct of hearings.

1628 (b) The Attorney General shall represent the Board in any proceedings in court, including the
1629 review of Board actions in The Supreme Court.

1630 **Sec. 12.15. Immunity**

1631 (a) Members of the Board, district committee members, the Executive Director, Assistants and
1632 employees of the Board shall be immune from from civil suit in the course of their official
1633 duties.

1634 (b) Records, statements of opinion, and other information regarding an applicant for admission to
1635 the bar communicated by any entity, including any person, firm or institution, without malice, to

1636 the Board of Law Examiners, or to its members, employees or agents, are privileged, and civil
1637 suits for damages predicated thereon may not be instituted.

1638 (c) The immunity granted in this Section shall not be construed to limit any other form of
1639 immunity available to any covered person.

1640 [Adopted by order filed April 15, 1999, effective May 1, 1999.]

1641 **ARTICLE XIII. FORMAL PROCEEDINGS BEFORE THE BOARD**

1642 **Sec. 13.01. Show Cause Orders.**

1643 If the Board finds, from the information furnished it or from investigations made under its
1644 authority, that grounds for doubt exist as to whether an applicant meets the criteria and standards
1645 provided in this Rule, the Board shall issue an order requiring the applicant to show cause why
1646 the applicant should not be denied admission or the opportunity to take the examination as the
1647 Board may determine. Any such show cause order shall state the grounds thereof, and shall
1648 afford the applicant an opportunity to reply thereto within a period designated therein. Any such
1649 reply shall be in writing, under oath, and may include such additional affidavits or other
1650 documents as the applicant may choose to furnish. If the Board determines that any such reply is
1651 not sufficient, the Board shall notify the applicant and afford him or her the opportunity to be
1652 heard in accordance with the procedures provided in this Rule. The Board or the Executive
1653 Director, however, may contact the applicant in order to secure an informal resolution of the
1654 matter before resorting to the formal procedures herein provided, but no such informal
1655 disposition shall be made without the consent of the applicant.

1656 **Sec. 13.02. Petitions to Board.**

1657 (a) Any person who is aggrieved by any action of the Board involving or arising from the
1658 enforcement of this Rule (other than failure to pass the bar examination) may petition the Board
1659 for such relief as is within the jurisdiction of the Board to grant.

1660 (b) Any such petition must:

- 1661 (i) Be in writing, under oath;
- 1662 (ii) Be filed with the Administrator within 30 days after notice of such action by the
1663 board; and
- 1664 (iii) Must state with reasonable particularity the relief which is sought and the
1665 grounds therefor.

1666 (c) Any such petition may:

- 1667 (i) Be accompanied by such affidavits and other documentary evidence as the
1668 petitioner may deem appropriate;

- 1669 (ii) May be supported by a Memorandum of Law setting forth pertinent authorities
1670 and arguments; and
1671 (iii) May ask the Board to set the matter for hearing.

1672 (d) The Board may order a hearing of any such petition on its own motion.

1673 **Sec. 13.03. Hearings Before the Board.**

1674 (a) The Administrator shall serve notice on the petitioner or the respondent to a show cause order
1675 and any other interested parties fixing the time and place of the hearing and indicating the
1676 matters to be heard.

1677 (b) The petitioner or respondent and any other person made a party to the proceeding shall have
1678 the right to be represented by counsel and to present evidence and argument with respect to the
1679 matters in issue.

1680 (c) The burden of proof shall be upon the petitioner, or the respondent in the case of a show
1681 cause order.

1682 (d) Any person having a direct interest in the matters in issue in any proceeding may, upon
1683 written motion, be allowed to intervene and become a party of record.

1684 (e) The Board shall not be bound by the rules of evidence applicable in a court, but it may admit
1685 and give probative effect to any evidence which in the judgment of the Board possesses such
1686 probative value as would entitle it to be accepted by reasonably prudent persons in the conduct of
1687 their affairs. The Board, however, shall give effect to the rules of privilege recognized by law.
1688 The Board may exclude incompetent, irrelevant, immaterial and unduly repetitious evidence.

1689 (f) All evidence, including records and documents in the possession of the Board of which it
1690 desires to avail itself, shall be offered and made a part of the record, and no factual information
1691 shall be considered by the Board which is not made part of the record.

1692 (g) Documentary evidence may be received in the form of copies or excerpts, or by incorporation
1693 by reference.

1694 (h) The Board may take notice of judicially cognizable facts, and, in addition, may take notice of
1695 general or technical facts within its specialized knowledge.

1696 (i) The Board may cause subpoenas to be issued for such witnesses as any party may in good
1697 faith and for good cause shown request in writing.

1698 (j) The Administrator shall arrange for the presence of a court reporter to transcribe any oral
1699 hearing. The per diem charge of such reporter shall be paid by the party requesting the hearing,
1700 or, in the case of a show cause order, by the Board. In its discretion, the Board may waive the
1701 presence of a reporter and use an electronic or similar recording device. At the direction of the
1702 Board, or at the request of any party, a transcription of the hearing shall be made, and shall be

1703 incorporated in the record, if made. The party requesting the transcription shall bear the cost
1704 thereof. If the Board elects to transcribe the proceedings, any party shall be provided copies
1705 thereof upon payment to the Board of a reasonable compensatory charge.

1706 (k) At the direction of the Board and by agreement of the parties, all or part of a hearing may be
1707 conducted by telephone, or other electronic means, if each party has an opportunity to participate
1708 in, to hear, and, if technically feasible, to see the entire proceeding while it is taking place.

1709 (l) Any member of the Board may hold hearings when authorized by the Board to do so, but any
1710 decision shall be made by a majority of the Board. Any member participating in the decision
1711 without being present shall read the transcript of the proceedings and the entire record before the
1712 Board.

1713 **Sec. 13.04. Default.**

1714 (a) If a party fails to respond to a show cause order, the Board may hold that party in default,
1715 serve a notice of default on that party, and after the period stated in that notice, enter an order
1716 taking such action as the Board deems appropriate.

1717 (b) If a party fails to appear at a hearing, the Board may hold that party in default, serve a notice
1718 of default on the party, and after the period stated in that notice, dismiss the petition, or, in the
1719 case of a hearing set by the Board on its own motion, enter an order taking such action as the
1720 Board deems appropriate.

1721 (c) When a party fails to respond to a show cause order, or fails to appear at a hearing, the Board
1722 may, at its election, proceed with the hearing in the absence of that party.

1723 (d) A party who has been held in default may file a petition for setting aside that default within
1724 15 days after the entry of an order based on that default, which petition shall state with
1725 particularity the grounds thereof.

1726 **Sec. 13.05. Costs.**

1727 The Board may require payment of or security for the costs and expenses of any hearing before
1728 the Board, in such a manner as it deems reasonably compensatory.

1729 **Sec. 13.06. Decisions of Board.**

1730 The Board's decision on any hearing before it shall be made in writing and a copy thereof shall
1731 be mailed or delivered to all parties of record.

1732 **Sec. 13.07. Informal Disposition.**

1733 Unless precluded by law or by this Rule, informal disposition may be had of any matter before
1734 the Board by stipulation, agreed settlement, or consent order.

1735

1736 **Sec. 13.08. Motions and Other Matters Preliminary to Hearing.**

1737 (a) Any party who desires to raise any matter preliminary to the hearing or to obtain any order
1738 from the Board prior to the hearing shall do so by motion, which shall be made in writing, shall
1739 state with reasonable particularity the grounds therefor, and shall set forth the relief or order
1740 sought.

1741 (b) Any member of the Board may dispose of any motion, subject to the right of review by the
1742 entire Board.

1743 **ARTICLE XIV. REVIEW OF BOARD DECISIONS**

1744 **Sec. 14.01. Petition for Review.**

1745 Any person aggrieved by any action of the Board may petition The Supreme Court for a review
1746 thereof as under the common law writ of certiorari, unless otherwise expressly precluded from
1747 doing so under this Rule. A petition filed under this section shall be made under oath or on
1748 affirmation and shall state that it is the first application for the writ. *See* Tenn. Code Ann. §§ 27-
1749 8-104(a) and 27-8-106. On the grant of the writ, the Administrator shall certify and forward to
1750 the Court a complete record of the proceedings before the Board in that matter. Any such petition
1751 must be filed within 60 days after entry of the order of the Board. The Board shall have 30 days
1752 after filing of any such petition within which to file a response.

1753 [Amended by order entered June 22, 1988; by order filed April 15, 1999, effective May 1, 1999;
1754 and amended by order entered May 2, 2011.]

1755 **Sec. 14.02. Costs.**

1756 The Supreme Court may make such orders as it may consider appropriate with respect to the
1757 payment of or security for costs and other expenses of hearings before the Court.

1758 **Sec. 14.03. Exhaustion of Board Remedies.**

1759 The Supreme Court will entertain no application or petition from any person who may be
1760 affected directly or indirectly by this Rule, unless that person has first exhausted his remedy
1761 before the Board.

1762 **Sec. 14.04. No Review of Failure to Pass Bar Examination.**

1763 The only remedy afforded for a grievance for failure to pass the bar examination shall be the
1764 right to re-examination as herein provided.

1765 **ARTICLE XV. SURRENDER OF LAW LICENSE**

1766 An attorney licensed to practice in Tennessee may petition The Supreme Court to accept the
1767 surrender of his or her license to practice law.

1768 The petition shall be filed in the office of the Clerk of the Appellate Courts in Nashville. The
1769 petitioner shall contemporaneously serve copies of the petition upon the Chief Disciplinary
1770 Counsel of the Board of Professional Responsibility, the Executive Director of the Board of Law
1771 Examiners, and the Executive Director of the Commission on Continuing Legal Education and
1772 Specialization.

1773 The petition shall state under oath:

1774 (a) the reason(s) for the requested surrender;

1775 (b) whether disbarment, suspension, disciplinary, or other administrative action of any nature is
1776 in effect or pending as to the petitioner;

1777 (c) whether there is a potential grievance, complaint, disciplinary or administrative action of any
1778 nature in any jurisdiction which may likely be filed against the petitioner;

1779 (d) whether the attorney is currently on probation, under criminal charge(s), or under
1780 investigation for criminal charge(s), of any nature in any jurisdiction.

1781 The Court may decline to consider any petition during the pendency of any of the matters
1782 described herein above.

1783 The attorney shall attach the law license to the petition or shall attach an affidavit fully
1784 explaining why the license is not attached.

1785 Upon consideration of the petition, the Court may grant the petition or deny it. If the Court grants
1786 the petition, the order accepting the surrender shall state the date the surrender shall take effect.
1787 The Clerk shall mail a copy of the order to the surrendering attorney, the Board of Professional
1788 Responsibility, the Board of Law Examiners, and the Commission on Continuing Legal
1789 Education and Specialization.

1790 As of the effective date of the order accepting surrender, the attorney shall have no license to
1791 practice law in this state. After the effective date of the order, this license shall not be reinstated,
1792 and the attorney may not be licensed to practice law in Tennessee until he or she applies for a
1793 law license in Tennessee and meets the requirements of Rule 7, Rules of The Supreme Court.

1794 [Article added by order entered April 11, 1996.]

1795 **ARTICLE XVI. REINSTATEMENT OF LAW LICENSE**

1796 **Sec. 16.01.** In accordance with Tenn. Sup. Ct. Rule 9, §§ 10 and 13, an attorney who has been
1797 suspended, disbarred or assumed inactive status and who wishes to take the bar examination as
1798 evidence of the attorney's fitness to practice law, must apply for examination as provided in
1799 Section 3.03 of this Rule, and attach to the application a disclosure that the application is being
1800 submitted pursuant to Section 16.01 of Rule 7.

1801 **Sec. 16.02** Applicant's bar examination scores will not be posted but will be released directly to
1802 the applicant.

1803 **Sec. 16.03.** Submitting an application to take the bar examination constitutes the applicant's
1804 permission to allow the Board to release the results of the bar examination and the background
1805 investigation directly to the Board of Professional Responsibility.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

RULE 43: INTEREST ON LAWYERS' TRUST ACCOUNTS.

Tennessee Supreme Court Rule 8, Rule of Professional Conduct 1.15, requires that Tennessee lawyers who maintain pooled trust checking accounts for the deposit of client funds participate in the IOLTA (Interest On Lawyers' Trust Accounts) program.

...

Section 14. Unless exempt under this Section 14, every lawyer admitted to practice in Tennessee shall certify in the lawyer's annual registration statement required by Tennessee Supreme Court Rule 9, as a condition of licensure, that all funds in the lawyer's possession that are required pursuant to RPC 1.1 5(b) to be held in an IOLTA account are, in fact, so held and shall list the name(s) of the financial institution(s) and account number(s) where such funds are deposited. This certification shall be made on a form provided by the Board of Professional Responsibility and shall be submitted by the lawyer within the time period set forth in Rule 9 for the annual registration statement. A lawyer licensed in Tennessee is exempt, and shall so certify on the lawyer's annual registration statement, if:

- (a) the lawyer is not engaged in the private practice of law in the State of Tennessee;
- (b) the lawyer serves as a Judge, Attorney General, Public Defender, U.S. Attorney, District Attorney, in-house counsel registered pursuant to Tennessee Supreme Court Rule 7, Section 10.01, teacher of law, on active duty in the armed forces or employed by state, local or federal government and not otherwise engaged in the private practice of law;
- (c) the lawyer does not have an office in Tennessee; however, for purposes of this Rule, a lawyer who practices, as a principal, employee, of counsel, or in any other capacity, with a firm that has an office in Tennessee shall be deemed for purposes of this Rule to have an office in Tennessee if the lawyer utilizes one or more offices of the firm located in Tennessee more than the lawyer utilizes one or more offices of the firm located in any other single state;
- (d) under regulations adopted by the Board of Professional Responsibility under criteria established upon recommendation of the Tennessee Bar Foundation, the lawyer or law firm is exempted from maintaining an IOLTA account because such an IOLTA account has not and cannot reasonably be expected to produce interest or dividends in excess of allowable reasonable fees; or
- (e) the lawyer is exempted by the Tennessee Bar Foundation from the application of this Rule following a written request for exemption by the lawyer and determination by the Tennessee Bar Foundation that no eligible financial institution (as defined and determined in accordance with this Rule 43) is located within reasonable proximity of that lawyer.

Comment

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

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

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

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

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

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

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

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

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

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

depositions in this jurisdiction.

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

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

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

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

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

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

[17] Moved to paragraph (d)(3), above.

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

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

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

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

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

DEFINITIONAL CROSS-REFERENCES

"Informed consent" See RPC 1.0(e)

"Reasonably" See RPC 1.0(h)

"Tribunal" See RPC 1.0(m)

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& MARTIN
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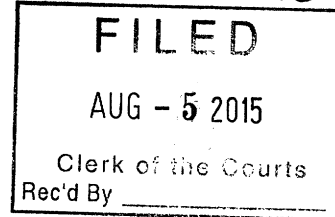
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July 31, 2015

ADM2015-00443



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

Re: Amendment of Rule 6, 7, and 8 (RPC 5.5), Rules of Tennessee Supreme Court

Dear Mr. Hivner:

We are writing in regard to the Tennessee Board of Law Examiners' proposed change to Rule 7, Article X, Section 10.04, which addresses applicants who are already licensed in another state who come to Tennessee to practice law. The proposed rule change allows for such applicants to begin working for a Tennessee-based law firm while he or she waits to take the next Tennessee Bar Exam. This is a much needed rule change that takes into account the reality that lawyers frequently move across state lines to work for different firms, and they should be allowed to practice on a limited and supervised basis provided that they have applied to take the Tennessee Bar exam. We strongly believe the Tennessee Supreme Court should adopt the proposed change to Rule 10.04 in its entirety.

Respectfully submitted,

James T. Williams

JTW:klm

IN THE SUPREME COURT OF TENNESSEE,
AT NASHVILLE

FILED
2015 JUL 30 PM 3:36

IN RE: PETITION TO AMEND)
TENNESSEE SUPREME COURT) NO. ADM2015-00443
RULES 6, 7 and 8)

COMMENT OF THE KNOXVILLE BAR ASSOCIATION

The Knoxville Bar Association has carefully reviewed the Petition to Amend Tennessee Supreme Court Rules 6, 7 and 8 and has sought the opinions of its members regarding proposed changes to admission and licensing requirements as proposed by the Board of Law Examiners. The Professionalism Committee of the Knoxville Bar Association (the "Committee"), has a longstanding practice of evaluating proposed rule changes and consistent with that practice, the Committee carefully considered these proposals. In this instance, the Professionalism Committee had the benefit of hearing from Lisa Perlen, the Executive Director of the Board of Law Examiners, who graciously agreed to present the Petition and the reasons for the proposed revisions. At a specially called meeting on July 29, 2015, the KBA Board of Governors ("KBA Board") also considered the matter carefully with thoughtful and substantive discussion.

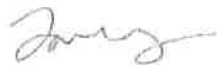
During the discussion, it was noted that the conjunction "and" should be changed to a disjunctive "or" in 2.02(b) to read "certifying the applicant has completed all the requirements for graduation or will have the number of credit hours required for graduation by the date of the bar examination". The KBA recommends that further clarification is needed in 5.01(a)(i) to reference the educational requirements noted in 2.02(a).

The KBA is appreciative of the Tennessee Board of Law Examiners ("TBLE") efforts' to make the provisions consistent with existing T.C.A. provisions and TBLE policies and procedures. The KBA Board respectfully recommends that the Supreme Court adopt the proposed changes in Rules, 6, 7 and 8, except for Section 2.02 (c). Please know that members of both the KBA Board and the KBA as a whole appreciate the efforts to address lawyer mobility and relocation options for lawyers licensed out of state. However, in addition to concerns about fundamental qualifications to practice law, the KBA Board believes that it is inconsistent to require new law schools in Tennessee to seek ABA accreditation while at the same time allowing lawyers licensed in other states who are graduates of non-ABA accredited law schools to take the bar exam in Tennessee. For those reasons, the KBA recommends that Section 2.02 (c) not be adopted.

As always, the KBA appreciates the opportunity to comment on proposed rules promulgated by the Tennessee Supreme Court.

Respectfully submitted this 30th day of July, 2015.

KNOXVILLE BAR ASSOCIATION

A handwritten signature in cursive script, appearing to read "Tasha C. Blakney".

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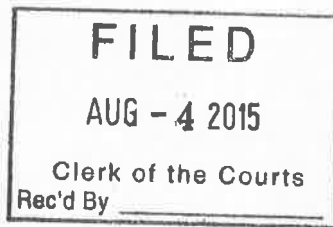
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August 3, 2015

James Hivner, Clerk
Tennessee Supreme Court
401 7th Avenue North
Nashville, TN 37219-1407



Josie Beets
State Licensing Director
josie.beets@gmail.com
(504) 355-7073

RE: Public Comment from Montgomery County Bar Association, Re: Rule 7, Section 5.03

Dear Justices of the Tennessee Supreme Court,

In their comment filed July 27, 2015, and posted to the Tennessee Supreme Court on August 3, 2015, the Montgomery County Bar Association references a rule proposed in Kentucky that would, if approved by its Supreme Court, require supervision of an attorney admitted under such an accommodation.

As the State Licensing Director for the Military Spouse JD Network (MSJDN), I attended the public hearing on proposed Kentucky SCR 2.113, held at the Kentucky Bar Association Annual Meeting on June 17, 2015. At that meeting, the Kentucky Supreme Court remarked they had merely duplicated a rule from another state and had not studied the issue in depth like Tennessee.¹ In fact, at the hearing the only lawyers who stood up for the proposed SCR 2.113 did so to oppose the supervision and association requirement.

Additionally, multiple letters from Kentucky legal community members and national supporters were filed at the hearing asking the Kentucky Supreme Court to advance a military spouse law licensing accommodation without the supervision requirement. Copies of those letters are attached to this letter.

Sincerely,

Josie Beets

Enclosures: Letter, retired U.S. Supreme Court Clerk and Major General William Suter
Letter, Brandeis School of Law student Jeremy Woodruff
Letter, Deans of Brandeis School of Law, Chase College of Law, University of Kentucky College of Law
Letter, Military Officers Association of America President Norb Ryan Jr.
Letter, Former U.S. Army Chiefs of Staff Carl E. Vuono, Gordon R. Sullivan, Dennis J. Reimer, Eric K. Shinseki

¹ The Kentucky Supreme Court copied the Virginia military spouse rule; only two spouses have utilized the rule despite Virginia having the third largest active duty military population.

June 2, 2015

5917 Reservoir Heights Ave.
Alexandria, VA 22311

Honorable Susan Stokley Clary
Clerk, Supreme Court of Kentucky
State Capitol, Room 235
700 Capitol Avenue
Frankfort, KY 40601

RE: Changes to Supreme Court Rule 3 regarding attorney spouses of service members

Dear Honorable Justices of the Supreme Court of Kentucky:

I am a retired Army Judge Advocate and the former Clerk of the United States Supreme Court. I am a proud "honorary Kentuckian" and I value my strong ties to the Kentucky Bar and the lawyers of the great Commonwealth. This letter is about the proposed rule pending before your Court to allow attorney spouses of military service members to practice law while in Kentucky on military orders. While I strongly support the effort behind the proposal and applaud the initiative of the Kentucky Bar, I believe the rule can be improved by eliminating the supervision and association requirement.

As proposed, a supervision requirement unfairly and unnecessarily burdens both the members of the Kentucky Bar and military spouse attorneys, who must be licensed to practice law and in good standing in other jurisdictions. I encourage your Court instead to adopt the alternate rule proposed by the Military Spouse JD Network (MSJDN). That rule represents an appropriate balance between this Court's interest in maintaining the highest professional standards for lawyers and the important public policy interest in supporting Kentucky's military families.

I am very familiar with the accomplishments of MSJDN and the volunteer efforts on behalf of military families. I have been an informal mentor to the organization and I can attest to the strength and passion with which its members work to lower barriers to the practice of law. As a result of MSJDN's efforts, and in recognition of the unique challenges facing military spouse attorneys, twelve states have enacted rules that allow attorney spouses of service members to practice law while accompanying the spouse on military orders. The model rule championed by MSJDN has tremendous national support, including the Conference of Chief Justices, the American Bar Association, the U.S. Chamber of Commerce, the Military Officers Association of America, and the White House's Joining Forces initiative.

Kentucky has the opportunity to demonstrate its strong support of our Nation's military personnel and their families. But I am concerned that the rule currently pending before your Court places an additional, unnecessary burden on the military spouse due to their military status. A requirement for supervision or association with local counsel also burdens members of the

Kentucky Bar. Through such an association, Kentucky Bar members would subject themselves to discipline on behalf of the attorney supervised. This presents a huge barrier to entry to the legal market for many of the same reasons military spouse attorneys have difficulty finding new employment. Given the mobile nature of military lives, these lawyers do not have the connections in local legal communities that quickly facilitate such a relationship.

Additionally, concerns about the quality or professionalism of military spouse attorneys are misplaced. Every attorney who seeks to practice under a military accommodation must be licensed and in good standing in another state bar. These lawyers typically are licensed in multiple states, and each attorney is obligated to uphold the same professional standards and obligations of every member of the bar. In most jurisdictions, any disciplinary history will render them unable to utilize the accommodation for military spouse attorneys. Additional supervision does not enhance the ethical obligations of a lawyer, but merely erects an additional barrier to practice.

Finally, it is worth noting that only a small number of military spouse attorneys are typically in Kentucky at any given time. While a licensing accommodation makes a tremendous positive difference in the lives of the lawyers who may be in Kentucky on military orders, the administrative task of managing an additional supervision requirement for a small number of lawyers is overly burdensome.

I thank the Kentucky Bar and Rules Committee for their initiative on this critical issue, but I encourage your Court to take the lead and support the needs of military families by adopting the rule without the requirement for supervision of local counsel. Adoption of the MSJDN proposed rule is the right thing to do, considering the incredible support of these lawyers and families to our nation. Thank you for your leadership in this effort.

Sincerely,



William K. Suter
Major General, JAGC, USA (Ret.)
Clerk of the U.S. Supreme Court (Ret.)

June 9, 2015

Susan Stokley Clary
Clerk, Supreme Court of Kentucky
State Capitol, Room 235
700 Capitol Avenue
Frankfort, KY 40601

RE: Changes to Supreme Court Rule 3 regarding attorney spouses of Servicemembers

Dear Honorable Justices of the Kentucky Supreme Court:

I am Jeremy Woodruff, President of the Veterans Advocacy Organization (VAO), Brandeis School of Law, and write you today concerning the proposed rule pending before this court that would allow attorney spouses of servicemembers to practice while in Kentucky pursuant to orders. I urge this Court to advance the rule without the supervision requirement. The rule, without the requirement for supervision, provides an appropriate balance between Kentucky's interest in maintaining the highest professional standards for lawyers and the important public policy interest in supporting Kentucky's military families.

I have personally dealt with my spouse's career issue, who is an accountant, and the worry for her to find suitable work that is commensurate with her education and experience. This issue was one of the main contributing factors to my early departure from active duty. After 13 years and three combat tours, to include a tour with the U.S. State Department, Diplomatic Security Service, we decided it was in our best interest to leave active duty so that she could have a career as well. Although my wife and I made the conscience choice to leave, the fact remains that I was seven years from retirement, but due to the restrictions on her ability to find suitable employment in her industry, we knew that leaving active service was the best choice.

Military families endure hardships that individuals of their same education and age cohort do not endure. With the conflicts in Iraq and Afghanistan coming to an end, the military had begun to retrograde their forces to peacetime personnel levels. For example, General James Amos projected the Marine Corps to downsize from 202,100 active and reserve Marines, to 174,000. With this reduction, the military is able to select and retain the most qualified individuals for continued service in the armed forces. For the United States military to continue to be an indestructible fighting force well into the 21st Century, it is imperative we give military family members the opportunity to pursue their own career goals, unrestricted and unsupervised. Without this unwavering support, Americans stand to lose the most qualified, experienced, and educated members of our military so their spouses have the opportunity to pursue their own career goals.

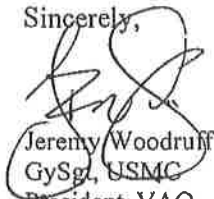
Kentucky has the opportunity to show its support to the legal and military family community by allowing attorney spouses of service members to gain the experience and knowledge of practicing law within the Commonwealth. This experience would enhance the career of the spouse of the service member, while at the same time allowing the service member to continue to serve in the armed forces. Additionally, the Kentucky bar would gain invaluable experience from

these military spouses who would be able to add a different perspective on the practice of law from other jurisdictions.

In recognition of the unique challenges facing military spouse attorneys, twelve states have already enacted a rule that allows the attorney spouses of servicemembers to practice while accompanying their spouse on orders. These rules have a broad range of support, including the Conference of Chief Justices, the American Bar Association, the U.S. Chamber of Commerce, the Military Officers Association of America, and the White House's Joining Forces initiative.

We encourage you to take the lead in promoting this effort. Adoption of the proposed rule without the supervision requirement recognizes the tremendous sacrifices of our military families and is an appropriate measure of appreciation considering their support for our nation. We hope you will join us in supporting our military families.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeremy Woodruff", is written over a circular stamp. The signature is fluid and cursive.

Jeremy Woodruff
GySgt, USMC

President, VAO
J.D. Candidate 2017

June 15, 2015

Susan Stokley Clary
Clerk, Supreme Court of Kentucky
State Capitol, Room 235
700 Capitol Avenue
Frankfort, KY 40601

RE: Changes to Supreme Court Rule 3 regarding attorney spouses of Servicemembers

Dear Honorable Justices of the Kentucky Supreme Court:

We write today to offer our support for the proposal pending before this Court that would allow attorney spouses of servicemembers to practice law while in Kentucky on military orders and to urge this Court to advance the rule without a requirement for supervision. The supervision requirement is unnecessary and only serves to burden local attorneys and military spouses alike.

Portable career opportunities for military spouses are a critical element in the willingness of families to continue serving the country, which affects the readiness of our military. Military spouses today are well-educated and actively pursuing careers. Yet military spouses, and attorneys in particular, face significant barriers to employment due to frequent moves that are extremely disruptive to careers. The need to take a new bar examination every two or three years is a significant burden, particularly when the process of applying for, taking, and waiting for the results of a bar exam can last almost a year. As a result, while 85 percent of military spouse attorneys hold an active law license, only 37 percent are actually employed with a job requiring a license. Military spouse attorneys have a 27 percent unemployment rate, and those who are employed suffer from a \$33,000 wage gap from their civilian attorney counterparts.

Attorney spouses are talented, creative, and hard working. Twelve states already recognize the value of bringing military spouse attorneys into their local legal communities by enacting rules that allow the attorney spouses of servicemembers to practice while accompanying their spouse on orders.¹ These rules have a broad range of support, including the Conference of Chief Justices, the American Bar Association, the U.S. Chamber of Commerce, the Military Officers Association of America, and the White House's Joining Forces initiative. The model rule developed by the Military Spouse JD Network and supported by these organizations does not include a supervision provision, because only lawyers licensed and in good standing are eligible for accommodation. These military spouse attorneys share the same professional obligations as any lawyer practicing in the state and should not be burdened with additional limitations.

¹ As of May 2015, those states are Arizona, Colorado, Idaho, Illinois, Oklahoma, Massachusetts, New York, New Jersey, North Carolina, South Dakota, Texas, and Virginia. The U.S. Virgin Islands also adopted a licensing accommodation for military spouse attorneys.

This state has a tremendous opportunity to demonstrate its strong support of our nation's military and their families. We encourage the Court to take the lead in promoting this effort. Adoption of the proposed rule for qualified military spouses recognizes the tremendous sacrifices of our military families and is an appropriate measure of appreciation considering their support for our nation.

Sincerely,

Susan Duncan/pw

Susan Hanley Duncan
Dean and Professor of Law
University of Louisville
Louis D. Brandeis School of Law

Jeffrey Standen/pw

Jeffrey A. Standen
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David Brennen/pw

David A. Brennen
Dean and Professor of Law
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College of Law



VADM Norbert R. Ryan, Jr. USN (Ret)
President

June 16, 2015

Susan Stokley Clary
Clerk, Supreme Court of Kentucky
State Capitol, Room 235
700 Capitol Avenue
Frankfort, KY 40601

RE: Changes to Supreme Court Rule 3 regarding attorney spouses of Servicemembers

Dear Honorable Justices of the Kentucky Supreme Court:

On behalf of the 390,000 members of the Military Officers Association of America (MOAA), I am writing to you today concerning the proposed rule pending before this court that would allow attorney spouses of servicemembers to practice while in Kentucky pursuant to orders. I urge this Court to advance the rule without the supervision requirement. The rule, without the requirement for supervision, provides an appropriate balance between Kentucky's interest in maintaining the highest professional standards for lawyers and the important public policy interest in supporting Kentucky's military families.

MOAA commissioned a report in 2014 regarding military spouse employment. What we found was that the employment picture for military spouses is grim. Military families move often -- 79 percent of military families have moved in the past five years. 50 percent have moved twice in the same time span.¹ Frequent moves make building a career difficult; military spouses have a 26 percent unemployment rate, and a 90 percent underemployment rate (meaning they possess more formal education and experience than is needed at their position).¹

Lawyers married to service members face significant barriers to employment due to these frequent moves among duty stations. The need to take a new bar examination every two or three years is extremely disruptive to careers, particularly when the process of applying for, taking, and waiting for the results of a bar exam can last almost a year. As a result, while 85 percent of military spouse attorneys hold an active law license, only 37 percent have a job requiring such a license.² Military spouse attorneys have a 27 percent unemployment rate,² and suffer from a \$33,000 wage gap from their civilian attorney counterparts.¹

In recognition of the unique challenges facing military spouse attorneys, the Military Spouse JD Network has fought nationwide, with the support of MOAA, for licensing

¹ Military Officers Association of America & Institute for Veterans and Military Families, Military Spouse Employment Report (February 2014) available at <http://vets.syr.edu/research/research-highlights/milspouse-survey/>.

² Military Spouse JD Network, 2014 Member Survey Report of Findings (May 2015), available at <http://www.msjdn.org/wp-content/uploads/2012/12/2015-MSJDN-Survey-Report.pdf>.

accommodations for attorney spouses of servicemembers. Twelve states and the US Virgin Islands have already enacted a rule that allows the attorney spouses of servicemembers to practice while accompanying their spouse on orders.

Kentucky has the opportunity to demonstrate its strong support of our nation's military and their families. But the rule currently pending before your Court places an additional, unnecessary burden on the military spouse due to their military status. A requirement for supervision or association with local counsel also burdens members of the Kentucky bar. Through such an association, Kentucky bar members would subject themselves to discipline on behalf of the attorney supervised. This presents a huge barrier to entry to the legal market for many of the same reasons military spouse attorneys have difficulty finding new employment; given the mobile nature of military lives, these lawyers do not have the connections in local legal communities that quickly facilitate such a relationship.

We encourage you to take the lead in promoting this effort. Adoption of the proposed rule without the supervision requirement recognizes the tremendous sacrifices of our military families and is an appropriate measure of appreciation considering their support for our nation. We hope you will join us in supporting our military families.

Sincerely, *With Regards*

Mark Ryan

June 1, 2015

Susan Stokley Clary
Clerk, Supreme Court of Kentucky
State Capitol, Room 235
700 Capitol Avenue
Frankfort, KY 40601

RE: Changes to Supreme Court Rule 3 regarding attorney spouses of servicemembers

Dear Honorable Justices of the Kentucky Supreme Court:

As former Chiefs of Staff of the Army, we write today to offer our support for the proposal pending before this Court that would allow attorney spouses of servicemembers to practice law while in Kentucky on military orders and to urge this Court to advance the rule without a requirement for supervision. Our collective military careers span 145 years of service to this great Nation, during times of war and peace. Through it all, we have seen the critical role of military spouses in supporting a strong and effective fighting force. We often say that spouses are the foundation of our military. They also serve tirelessly, selflessly, and behind the scenes.

Portable career opportunities for military spouses are a critical element in the willingness of families to continue serving the country, which affects the readiness of our military. Military spouses today are well-educated and actively pursuing careers. Yet military spouses, and attorneys in particular, face significant barriers to employment due to frequent moves that are extremely disruptive to careers. The need to take a new bar examination every two or three years is a significant burden, particularly when the process of applying for, taking, and waiting for the results of a bar exam can last almost a year. As a result, while 85 percent of military spouse attorneys hold an active law license, only 37 percent are actually employed with a job requiring a license. Military spouse attorneys have a 27 percent unemployment rate, and those who are employed suffer from a \$33,000 wage gap from their civilian attorney counterparts.

Attorney spouses are talented, creative, and hard working. Twelve states already recognize the value of bringing military spouse attorneys into their local legal communities by enacting rules that allow the attorney spouses of servicemembers to practice while accompanying their spouse on orders.¹ These rules have a broad range of support, including the Conference of Chief Justices, the American Bar Association, the U.S. Chamber of Commerce, the Military Officers Association of America, and the White House's Joining Forces initiative.

The supervision requirement is unnecessary and only serves to burden local attorneys and military spouses alike. Kentucky has a tremendous opportunity to demonstrate its strong support of our nation's military and their families. We encourage the Court to take the lead in promoting this effort.

¹ As of May 2015, those states are Arizona, Colorado, Idaho, Illinois, Oklahoma, Massachusetts, New York, New Jersey, North Carolina, South Dakota, Texas, and Virginia. The U.S. Virgin Islands also adopted a licensing accommodation for military spouse attorneys.

Adoption of the proposed rule for qualified military spouses recognizes the tremendous sacrifices of our military families and is an appropriate measure of appreciation considering their support for our nation.

Sincerely,



Carl E. Vuono
General USA (Retired)
31st Chief of Staff



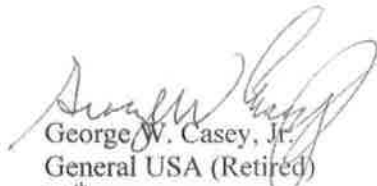
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General USA (Retired)
32nd Chief of Staff



Dennis J. Reimer
General USA (Retired)
33rd Chief of Staff



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General USA (Retired)
34th Chief of Staff



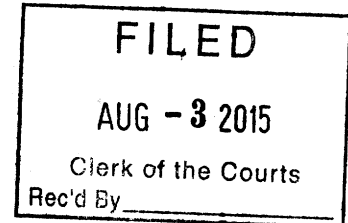
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July 27, 2015

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



Re: Rule 7, Section 5.03, No. ADMIN201500443, Licensing of Military Spouse Attorneys

Dear Justices of the Tennessee Supreme Court:

I write on behalf of the Military Spouse J.D. Network ("MSJDN"), a bar association for military spouse attorneys, in support of the petition to provide a licensing accommodation for attorney spouses of active-duty service members. This Court has received numerous public comments supporting this proposal, including stories from military leaders, families, and attorneys who want to contribute their talents in Tennessee. I urge this Court to consider the dedicated attorneys whose legal skills Tennessee cannot utilize because of the current barriers to practice law.

As a former active-duty Army judge advocate and military spouse, I personally have experienced the challenges of balancing the legal profession with the demands of the mobile military lifestyle. Likewise, military families with orders to Tennessee face difficult choices when the spouse is an attorney. The attorney spouse who is employed in another state may decide not to move to Tennessee, leaving families separated. Alternatively, the attorney spouse may decide to join the service member in Tennessee and risk unemployment and the associated challenges that come without being able to find work. The military assigns service members to jurisdictions without regard for state bar exam deadlines or licensing restrictions and the service member does not have the ability to decline the move.

The proposed licensing accommodation before this Court would allow a military spouse to practice under a temporary admission to the Tennessee bar if the spouse meets the qualifications of the rule. The rule would require the same high character and fitness standards expected of all Tennessee bar members. And, it would limit admission only for the duration of the military spouse's stay in Tennessee on military orders.

This proposal represents an appropriate balance of Tennessee's duty to maintain the highest standards for members of its bar, and the important public policy interest in supporting military families who sacrifice so much through service to this great nation. With your support, Tennessee can provide a common-sense accommodation to allow these lawyers to share their talents in the state. Although this rule may help only a handful of lawyers in any given year, it

will make a tremendous difference in the lives of those lawyers and the clients whom they may serve.

I encourage you to advance the proposed rule and I thank the Tennessee Supreme Court for its willingness to consider this important issue.

Sincerely,

A handwritten signature in cursive script that reads "Eleanor Magers Vuono". The signature is written in black ink and is positioned above the printed name.

Eleanor Magers Vuono
President, Military Spouse J.D. Network

DIANNA YVONNE LANCASTER MILLER, ESQ.

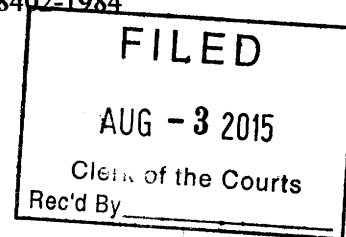
ATTORNEY LICENSED IN THE COMMONWEALTH OF KENTUCKY

E-mail: diannaylmiller@gmail.com
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P. O. Box 1984
Columbia, TN 38402-1984

Thursday July 30, 2015

James Hivner, Clerk
100 Supreme Court Building
401 7th Ave North
Nashville, TN 37219-1407



Re: Comments on the TBLE Petition to Amend Rules 6, 7, and 8 (Docket No. ADMIN2015-00443)

Dear Mr. Hivner:

I am writing to express my support for the petition that was filed on March 12, 2015 by the Tennessee Board of Law Examiners (the TBLE) to amend the rules that govern the admission and licensing of attorneys.

I limit my comments to the changes proposed for Rule 7.

Rule 7, Article III

I am largely in support of the changes to Rule 7, Article III. I do support the single deadlines for each of the two exams that are administered each year. I do think this would help the Board operate more efficiently.

However, I do have concerns about the continuing obligation to provide updated character and fitness reports every two years. To be clear, I do not have a problem with the requirement to provide updates, such as name and address, but I believe that the additional requirement of paying additional fees and having friends, family, and colleagues asked to complete questionnaires every two years—even if the candidate is not intending to take an upcoming exam—is overly burdensome.

This is a costly process, especially for fairly recent graduates as well as new attorneys, who cannot afford the continued expenses. In my case, I have kept my application open because I would eventually like to become licensed in Tennessee; however, I have not been able to afford the filing process and all the re-application requirements currently associated with it. I spent most of 2014 and part of 2015 serving as a public defender in Kentucky. I think basic changes should be allowed to be submitted by mail or electronically, without the requirement of submitting a supplemental application if the candidate is not sitting for the next exam.

Rule 7, Article IV

I completely support the provision that would eliminate the need for repeat takers to secure a supervising attorney and provide a study plan to the Board. As a repeat taker, I think this process is overly burdensome and too costly—especially considering that after failing Tennessee's exam in July 2012 by 7 points, I went on to pass Kentucky's bar exam on my own during my first attempt there in February 2013. I was able to use my TN MBE score, ordered a set of books on eBay, and passed that exam without a review course.

Additionally, I think that Tennessee should revisit its policy on not accepting its own MBE score in subsequent exams. It doesn't make sense that Kentucky accepted my TN MBE score, but TN won't accept it.

Also, I think that Tennessee should reconsider the requirement that if a person fails only one portion of the exam, the candidate has to retake all other portions. I think the better policy would be for that candidate to re-take only the failed portion(s). This is Kentucky's policy, and it seems to work fine there.

Rule 7, Article V


My final comment is on the requirement for comity admission. I would ask the Board and the Court to consider reducing the amount of time that an attorney who is licensed in another jurisdiction must practice before he or she can apply for comity admission in Tennessee. Currently, one must practice for at least five out of seven years.

Although I have had some trouble passing Tennessee's exam, I have gone on to do competent work in the legal profession. I recognize that being unsuccessful on Tennessee's exam doesn't mean that I am incapable of meeting the high standards of an attorney. I have successfully practiced in Kentucky. At best, my Tennessee failure simply means that I did not test well in Tennessee.

I think the Board's proposed changes are a great starting step to reducing barriers into Tennessee's legal profession. It is my hope that one day, however, Tennessee will also re-evaluate the substance of its current tests as well. I think the essay questions in particular are in need of an overhaul, although I have in the past, done fairly well on them. Tennessee is missing out on some great attorneys because of the rigid standards that are currently in place.

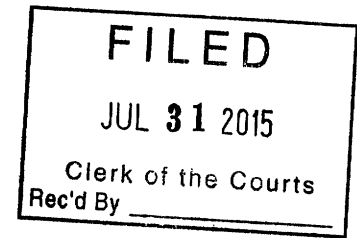
Thank you for your consideration.

Sincerely,


Dianja Y. L. Miller ("Dee")

July 29, 2015

Justice Jeffrey S. Bivins
Justice Cornelia A. Clark
Lisa Perlen, Tennessee Board of Law Examiners
Tennessee Supreme Court Building
401 7th Avenue North
Nashville, TN 37219



ADM2015-00443

re: Amnesty for Lawyers (Second)

Dear Justice Bivins, Justice Clark and Ms. Perlen:

I write to oppose a second blanket lawyer amnesty and, instead, make an alternate proposal.

You are planning a second blanket amnesty for lawyers, despite having granted the first blanket amnesty just a couple of years ago. Somehow I do not think this is something the public is going to get behind.

While browsing through your website, I discovered the proposed comprehensive amendments to Rules of the Tennessee Supreme Court for the admission and licensing of lawyers. Your stated purpose is to ensure consistency and "to expand the provisions of the rules related to licensing of attorneys admitted in other jurisdictions in consideration of the increased mobility and relocation of lawyers." These are admirable ideals and goals, to be sure.

While most of the proposed changes are "housekeeping" in nature and positive, you are also proposing a second lawyer amnesty. Your proposal states that "many attorneys who relocate to Tennessee as In-House Counsel mis-read" Tennessee law primarily because of an alleged misplaced comment. As a result, they engage in the unauthorized practice of law, or UPL, by not getting admitted or registered.

In other words, out-of-state lawyers who are employed in-house by a business in Tennessee claim they become confused and, as a result, engage in the unauthorized practice of law. Really?

So the question is: Should lawyers be granted blanket amnesty? Twice?

Please see Tennessee Code Sec. 23-3-101 and the following sections (no person may engage in the unauthorized practice of law), Tennessee Supreme Court Rule 7 Article I (may not practice law in Tennessee without following the admission or registration rules of the Tennessee Supreme Court), Tennessee Supreme Court Rule 7 Article V (may be waived in if practiced 5 of the last 7 years and admitted in another state), Tennessee Supreme Court Rule 7 Article X (in-house lawyers, if not admitted through the bar exam or waived in, must register within 180 days), Tennessee Supreme Court Rule 8, Rule of Professional Conduct 5.5 (may not engage in the unauthorized practice of law, but in-house lawyers may register), and others.

Tennessee law is clear that in-house lawyers need to be admitted or registered; this is consistent with other states. This is not a surprise and every business lawyer knows this.

In-house lawyers sometimes move from the state of their law license (their home state) to take another in-house job in a new state where they are not licensed (their new host state). If they take a job in

Tennessee, they can take the Tennessee bar exam, waive in if they have practiced for 5 of the last 7 years in any state, or register as in-house lawyers within 180 days and practice law only for their employer. All must meet certain requirements, including participation in a character and fitness investigation (TNSC Rule 7 Article VI).

It seems this issue keeps coming up, year after year and decade after decade. When consequences are felt by in-house UPL lawyers, they claim "inadvertence", "error", "mistake", "busy", "life events", etc. Perhaps the solution is to enforce the law and word will circulate.

Let's review some history. Some in-house lawyers over the years have complained about the requirement to be admitted and take the bar exam in their new host states of employment if they move after being licensed in their home state. In fact, there were several high profile "outings" by the business press of in-house UPL lawyers. As a result, approximately 20 years ago, there was a movement to permit them to merely register with their (new) host states if they could not waive in and did not wish to take another bar exam. This movement had several prominent backers and laws were passed and rules adopted nationwide, including Tennessee a couple of years ago. One of the promises was that the new in-house counsel registration rule, coupled with an amnesty for those lawyers who were then violating the law, would end the unauthorized practice of law problem once and for all. According to the comments to your current proposal, the first blanket amnesty did not work as promised, even though Tennessee is probably the easiest state for out-of-state lawyers.

Lawyers have a special obligation to honestly and faithfully follow the law; they even take an oath.

Business lawyers, including those who work in-house, have known for decades that each in-house lawyer must obtain permission from the proper authorities to practice law in the states of their employment. Most in-house lawyers do, but there has always been a stubborn minority who do not. The reason is usually that they do not want to be inconvenienced and do not believe there will be consequences. In fact, some of them engage in the unauthorized practice of law in multiple states over the span of their careers.

Anyone can easily determine the national requirement for in-house lawyers to be admitted or registered: Google keyword searches, legal research databases, seminars, continuing legal education courses, professional organizations such as the Association of Corporate Counsel, legal research providers, periodicals, blogs, Listserv and other lawyers. There are innumerable articles, surveys and posts. There is no question, and there has been none for decades. In fact, anyone taking an in-house position in Tennessee can always consult with Tennessee counsel or even call the Tennessee Board of Law Examiners. After all, Tennesseans are eager to be helpful.

What are some of the consequences of in-house lawyers practicing without admission or registration?

- a. Unlawful
- b. May result in serious disciplinary action in the new host state and the state of licensure
- c. No attorney-client privilege
- d. No attorney work product protection
- e. No advice of counsel defense for the company, its executives or owners
- f. Investors and others could include in a lawsuit a cause of action to unwind their investment and/or seek damages due to lack of disclosure

The last consequence deserves special attention. In today's business litigation environment, plaintiffs and their lawyers seek and exploit vulnerabilities. This cause of action would go to trial. The defendant company with the UPL lawyer will not defeat this cause of action with a motion to dismiss or summary judgment motion. The finder of fact would then determine whether or not a reasonable investor, or the plaintiff investor, would not have invested if UPL had been disclosed; i.e., whether it is material, particularly if the UPL lawyer is senior and particularly if the UPL lawyer engaged in UPL in other states. This is not likely to be the sole cause of action in a lawsuit, but it would be an effective add-on.

As you can tell, these are very serious issues. No lawyer has the right to expose his or her client to this type of liability.

And what does the second blanket "amnesty" mean, as you now propose? Your proposal states "the Board proposes an amnesty period to allow current In-House Counsel thinking [sic] that they are authorized to offer [legal] services to their employer . . . without further action, to register without risk of being reported for unauthorized practice of law to the Tennessee Board of Professional Responsibility or the disciplinary authority in the jurisdictions in which they are licensed."

In other words, you propose to process the application of in-house UPL lawyers for 6 months after adopting the second blanket amnesty rule without informing the disciplinary authorities of their UPL violation in either Tennessee or their home state of licensure. Don't you also have ethical obligations?

And what about the consequences outlined above? Can you forgive the unlawful act through a second blanket amnesty? Can you decree a blanket forgiveness of the violation of law and eliminate the possibility of disciplinary action? Can you create attorney-client privilege or attorney work product doctrine where none existed? Can you create an advice of counsel defense where none existed? Can you erase a civil cause of action by public investors? The answer, of course, is "No."

Have any other professions been granted any amnesty in Tennessee? A second amnesty? Doctors? Nurses? Architects? Cosmetologists? Dentists? Court reporters? Contractors? Veterinarians?

In short, granting the first blanket amnesty was not a good idea, and this second round of amnesty is a very poor idea that should not be adopted.

As an alternative, perhaps you could consider clemency or forgiveness on a case-by-case basis.

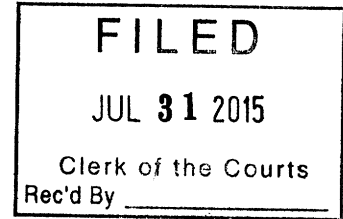
There would have to be good cause shown; perhaps some extraordinary unforeseeable event that can be demonstrated by affidavit. And, of course, each applicant would have to pass the character fitness investigation. The good cause should demonstrate why the UPL in Tennessee does not demonstrate lack of character and fitness. Will the in-house UPL lawyers be required to show that somehow they reasonably "overlooked" one comment to one rule? Will they have to show they were somehow "thinking that they were authorized to offer [legal] services to their employer" without admission or registration? What if they engaged in the unauthorized practice of law in other states? It seems like that would result in disqualification. Did the UPL lawyer continue to practice law and hold him or herself out as a lawyer after discovering their "inadvertence"? Did the in-house UPL lawyer advise his or her employer/client when he or she was hired? At any time after? Did any outside lawyers with knowledge advise the company? I am sure you can come up with appropriate criteria.

cc: select legislators and media

From: "Lovely A Thomas-McCracken" <LovelyAThomas@hotmail.com>
To: <lisa.marsh@tncourts.gov>
Date: 7/31/2015 2:56 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Friday, July 31, 2015 - 2:56pm
Submitted by anonymous user: [68.34.198.238]
Submitted values are:

Your Name: Lovely A Thomas-McCracken
Your Address: 302B Baker Street, Fort Campbell, KY 42223
Your email address: LovelyAThomas@hotmail.com
Your Position or Organization: Attorney
Rule Change: Supreme Court Rule 6, 7, and 8 (RPC 5.5)
Docket number: ADMIN201500443
Your public comments:
Dear Honorable Justices of the Tennessee Supreme Court



I am a military spouse attorney writing in support of the request to amend Tennessee Supreme Court Rule 7 section 5.03, No. ADMIN201500443. I would like to share my story with you.

I graduated from Indiana University School of Law in May 2006. The fall before graduation, I reconnected with a military acquaintance and subsequently moved to North Carolina to be with him. I had no idea at that time the impact this decision would have on my career. I passed the North Carolina bar exam that summer and landed my first job as an attorney. Sadly, our combined incomes were not enough to cover my student loans and our household expenses. My now spouse, applied to become a warrant officer. We were elated when he passed the first phase of training and subsequently surprised when we received orders to move within thirty days to Fort Benning, GA.

Although North Carolina has reciprocity with Georgia, I was one year shy of qualifying. Since our notice to move was so short and during the summer, I was unable to register for the July bar exam. My husband received a small pay increase, but with the loss of my income, we never saw it. I deferred my loans until I could secure a legal position and looked towards the next exam. I then discovered that I could not afford the nearly \$3000 in fees for the exam and bar review courses. The only recourse would be to increase our debt by securing another loan that I couldn't afford. We decided against doing so after a new directive was issued requiring Warrant Officers to now move at least once every three years.

I foolishly figured that with my military background, volunteer and work experience, I would easily secure a legal position, especially in a military town. The only attorney position I was able to secure was as a volunteer for Georgia Legal Services. After almost a year of unsuccessful job hunting, I lowered my expectations and started applying for legal related positions and those that my law school ensured me that my degree would easily transfer to. Most employers figured that as a military spouse I was just passing through, so I wasn't considered. My confidence was starting to wane. Not to be deterred, I joined the local chapter of Junior League and started networking and volunteering.

My efforts still proved futile. I was somewhat elated when approximately a

year and a half after arriving, we received our next orders to Fort Campbell, KY. This time we were given 90 days to relocate.

Disappointment soon set in as I quickly realized that those same obstacles exist here. Once again, I cannot afford the fees. I applied for and was awarded a scholarship. Sadly, I turned it down after discovering that I was incorrectly informed that the award would also cover the cost of the review course.

My 10 year law school reunion is next year and I will most likely not attend.

Since I made the decision to keep our family together, I am lacking notable achievements, career wise. It is tiring to explain to my peers how being a military spouse has impacted my career. Many just assume that it's from a lack of effort until I explain that since I've never remained in one place long enough for reciprocity to apply, I have to start over with every move, despite my experience. Since I lack income, but my loans must still be repaid, my family lives from check to check and we simply cannot afford to pay several thousand dollars every few years in exam and review courses fees.

Sadly, my career or lack thereof has become a point of contention in my household as our size and expenses have increased. If I did not have such a strong passion for the law, I would have given up on this dream by now. While my husband is prospering in his career and looking towards retirement in the next few years, I am looking forward to starting my own. Some would say that it is my own fault for marrying a service member. Although I never imagined my career would be affected to this extent, I firmly believe that you can't help who you love. I am proud of his service to our country and know that he also takes immense pride in what he does.

I wish that my story was unique. Sadly, this is the sacrifice of most military spouse attorneys. I hope that you will consider the proposed rule change which will lift the single most significant barrier to gainful employment that we face. We are a truly resilient bunch that sincerely not only want to contribute to our households, but we want the opportunity to put our hard earned skills to use by practicing our craft.

Thank you for your time!

Sincerely,

Lovely A Thomas-McCracken
Bar # 35607 NC

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/12429>

Scott D. Hall

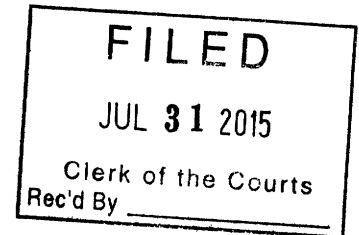
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July 31, 2015



Mr. James M. Hivner, Clerk
Tennessee Appellate Courts
100 Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1407

ADM2015-00443

Re: Tennessee Bar Admission - Proposed Rule Changes

Mr. Hivner,

I am writing to comment on the proposed relaxing of the Supreme Court Rules with regard to admission to practice in Tennessee. Particularly, the "reciprocity" provisions of our Supreme Court Rules are my primary concern.

In actuality, it has been my experience that other states do not have reciprocity with Tennessee. While Tennessee Rules allow any Tom, Dick, or Sally attorney to become licensed and compete with Tennessee attorneys, Tennessee attorneys are not allowed to do the same in other States.

As an Example, Alabama claims "reciprocity" but to gain such, a Tennessee attorney must move his or her practice to Alabama. To the contrary, Tennessee has no such provision, and any Alabama attorney may practice in Tennessee merely by applying under Rule 7, Section 5. Essentially, the Tennessee qualification is merely to be licensed in another State and to have the desire to take business from Tennessee attorneys.

Another Example is Florida. While Florida did allege reciprocity, they don't anymore. Still yet, Florida attorneys are being allowed left and right to practice in Tennessee merely by complying with Rule 7, Section 5. Another stake in the heart of Tennessee attorneys when trying to become admitted to the Florida Bar is that they charge \$3,000 for the application. If I want to assist any of my numerous Florida relatives, I have to associate a Florida attorney and pay the Florida attorney to sit in on my case.

These "hurdles" placed by other States are intended to keep Tennessee attorneys from moving into another State to begin practice. Currently, Tennessee seems to be about the easiest

State in which to circumvent the licensing rules, yet it is proposed that we make the rules more lax. You are devaluing every Tennessee attorney!

You are hurting Tennessee attorneys and costing us money by allowing these other jurisdictions to flood the Tennessee market. Most Tennessee attorneys struggle, for not a huge income. Most Tennessee attorneys are hurt by the unfair (i.e., one-way-street of "reciprocity") that Tennessee so graciously allows. Like it or not, the practice of law should generate income so that bills may be paid.

Your proposed relaxation of the licensing rules merely adds insult to injury. The Tennessee attorney is hurt by relaxing the rules. Tennessee attorneys do not benefit from the current, nor proposed, lax licensing rules.

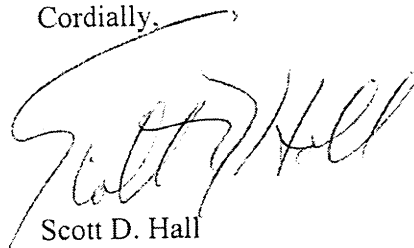
Further, making it easy for out-of-state attorneys to practice in Tennessee does not help Tennessee residents. Competency should be an ingredient to the licensing process, and with your attempt to flood the market with attorneys by lowering the admission standards encourages lesser qualified individuals to come to Tennessee. If these attorneys can't make it in other states, why relax the Tennessee Rules to pull these people into Tennessee? So someone can run a divorce mill in five (5) states and undercut the hardworking Tennessee divorce attorney?

Please consider the practical obligations of trying to ethically and effectively operate a law practice. Many Tennessee attorneys would love to have a government job which assures a regular salary and provides State benefits such as health insurance coverage and retirement plans. In my experience, I know that many Tennessee attorneys have gone without health insurance coverage and only hope to save enough to cover expenses after they can't work enough to cover all expenses.

If you want good attorneys in Tennessee, you need to treat Tennessee attorneys fairly and not try to dilute their incomes to poverty level.

I object to any changes proposed to the licensing Rules. Tennessee is already the easiest state in which to become licensed without taking the Bar Exam, based on my experience.

Cordially,



Scott D. Hall

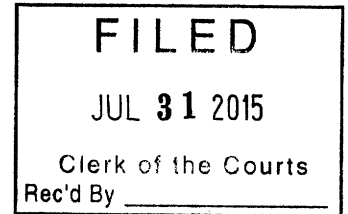
SDH/ts



William L. Norton III
Direct: (615) 252-2397
Fax: (615) 252-6397
bnorton@babc.com

July 31, 2015

James Hivner, Clerk
Re: Rule 7, Section 5.03
100 Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1407



RE: Public Comments Regarding Rule 7, Section 5.03, No. ADMIN2015-00443

Dear Hon. Justices of the Tennessee Supreme Court:

This is to provide public comment in support of Amendment to Rule 7 regarding licensing of military attorney spouses.

I am a veteran of the United States Navy and have two sons who also served in the military. All of us were married during our service and we experienced first hand the unique stress that military service places on a family. The frequent moves of duty stations that is inherent in the military service make it difficult for spouses to find meaningful employment to supplement their family income. The standard licensing requirements make it impracticable for a military spouse to practice law in Tennessee during the brief period of their duty assignment in Tennessee. The proposed amendment to Rule 7 is a meaningful way to improve the quality of life for military families serving in Tennessee and is a great opportunity for Tennessee to demonstrate support for our nation's military and their families.

Thank you for your consideration of my support of this Amendment.

Respectfully,

William L. Norton III

WLN/dla

7/3693418.1

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

FILED

2015 JUL 27 PM 3:25

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

No ADM2015-00443

COMMENT OF THE TENNESSEE BAR ASSOCIATION

The Tennessee Bar Association (“TBA”), acting through its President-Elect, Jason Long¹; Chair, TBA Standing Committee on Ethics and Professional Responsibility, Brian S. Faughnan; General Counsel, Paul Ney; and Executive Director, Allan F. Ramsaur, in response to two Orders of this Court soliciting public comment – one entered March 25, 2015, and one entered April 13, 2015 – submits the following comment on the petition filed by the Tennessee Board of Law Examiners (“TBLE”) on March 12, 2015 and the amendment to that petition submitted by a group of lawyers regarding treatment of spouses of military service members on April 6, 2015. The TBA generally agrees with the stated rationales and supports the objectives of both of the proposals concerning comity admission to practice law in Tennessee, practice pending admission, consideration of permission to take the bar exam by lawyers licensed in other states who are graduates of schools approved only by those states, registration by in-house counsel for the limited practice of law in Tennessee, and the temporary admission to practice law in Tennessee of lawyer spouses of active duty U.S. servicemembers. With respect to each proposal, however, the TBA differs on certain specific elements and urges the Court to adopt important

¹ The president of the TBA is a sitting member of the TBLE and has therefore abstained from advocating a position on behalf of the TBA in response to the petition filed by the TBLE. Pursuant to provision 35 of the TBA Bylaws, these duties have been delegated to the President-Elect.

modifications to certain aspects of the proposed rule revisions, as explained in this comment and as set forth in Exhibits 1 and 2 attached to this comment.

BACKGROUND

A. Comity Admission.

Various sections of Rule 7 of the Rules of the Tennessee Supreme Court govern the admission of lawyers licensed to practice law in other U.S. jurisdictions to practice law in Tennessee without examination, *i.e.* comity admission.

Convinced that the public and justice system are adequately protected with respect to the competence, reputation, character, integrity of lawyers admitted in other jurisdictions, the TBA has supported the move towards greater flexibility of admission of lawyers by allowing the TBLE to waive the examination of applicants admitted in other jurisdictions in this country that satisfy the other requirements for admission. This policy has generally benefited the bench and bar in Tennessee by providing greater diversity and addresses the reality that regional and national law firms demand greater mobility in lawyers they wish to hire.

However a change in Rule 7 § 5.01 which was adopted without comment in 2011 has significantly impaired the effectiveness of these comity provisions as to any lawyer looking to move to Tennessee to practice law in response to a job offer. As Section 5.01 currently reads, a lawyer licensed in another jurisdiction who files a completed application for comity admission on August 1, 2015 and then moves to Tennessee to start work at a new job on August 8, 2015 (or even September 1, 2015 for that matter) places herself in an untenable position because her comity application appears doomed to failure. This is because currently Section 5.01 provides that a lawyer cannot begin “the law business,” “the practice of law,” or employment as a lawyer

in Tennessee until the Board has actually approved the lawyer's application for comity admission.

Because it takes months, in the best case scenario, for the TBLE to be in position to actually approve someone for comity admission, this requirement for application *and* approval prior to starting work has made it practically impossible for many lawyers with reasons to move to Tennessee to obtain comity admission in a way that complies with the language of the existing rule. It is difficult to imagine a scenario in which a lawyer licensed in another jurisdiction, who receives a job offer in Tennessee, would be able to accept the offer but convince the employer to wait many months before the lawyer can move to Tennessee and begin work. Prior to the insertion of this language in Section 5.01 in 2011, this type of situation was addressed in a workable (if not perfect) fashion under the principles that had been set forth in several Formal Ethics Opinions issued by the Board of Professional Responsibility dating back to 1985 and culminating with Formal Ethics Op. 2012-F-91(b). After the 2011 amendment to Tenn. Sup. Ct. R. 7, § 5.01, however, the BPR issued Formal Ethics Op. 2012-F-91(c) calling into question the viability of the approach under the prior Formal Ethics Opinions.

B. Admission by examination of lawyers licensed in other states who are graduates of schools approved by those states

The TBLE proposes a new provision in Tenn. Sup. Ct. R. 7, § 2.02(c) which would permit the Board to consider granting permission to take the bar exam by lawyers licensed in other states who are graduates of schools approved only by those states. The effect of these new provisions is to permit graduates of schools which are not ABA-accredited but are approved by an agency that is equivalent to our TBLE to apply for admission and request permission to be

eligible to apply for admission by examination. Such admissions would be conditioned upon good standing before the highest court jurisdiction, practice of law for 3 of the last 5 years in the lawyer's home jurisdiction, and satisfaction of character and fitness requirements.

This is not the first time this Honorable Court has addressed this issue in recent years. In 2009 and 2010 the court considered the matter of Melissa Campbell Lanzo vs. the Board of Law Examiners for the State of Tennessee No. M2010-01646-SC-BLE-RL. The matter was a petition to amend Tenn. Ct. R. 7 § 2.02 to permit Ms. Lanzo and other graduates of approved schools who pass the bar in other states and practice from 5 to 7 years in their home jurisdiction to sit for the exam in Tennessee. By order dated October 12, 2010 the Court indicated it was considering an amendment which would have replaced the provisions indicated by Ms. Lanzo.

The TBA opposed any such change in the rules at that time. In opposing the petition, the TBA expressed concerns that only a small minority of U.S. jurisdictions (only 14 states) then permitted graduates from non-accredited schools approved only in their home state to sit for their examination, and that the proposed rule would effectively incorporate by reference the educational requirements from states which permitted law school correspondence courses. On February 25, 2011 the Court concluded the proposed amendment should not be adopted and that a waiver of examination should not be granted to Ms. Lanzo.

C. In-house Counsel.

The rules permitting registration for in-house counsel for the purpose of providing legal services to a sole client/employer found in current Tenn. Sup. Ct. R. 7, § 10.01 were adopted at the urging of the TBA. In advancing the proposal, the TBA argued that such a provision would facilitate movement of in-house corporate counsel employed by Tennessee companies and that

the risk of harm to those employers, mostly sophisticated businesses or corporations, would be insubstantial. In adopting this rule and the change to Tenn. Sup. Ct. R. 8, RPC 5.5(d) (1), the TBA also suggested an amnesty provision which would initially permit lawyers who had been providing legal services without permission under the rules to register without a sanction if they registered by June 30, 2010. For new in-house counsel applicants the rule establishes that such lawyers must submit their registration application within 180 days of beginning employment. The TBA now agrees with the TBLE recommendation for adoption of a new safe harbor or amnesty.

Unfortunately, the in-house counsel registration provisions under Tenn. Sup. Ct. R. 7, § 10.01 and the language in Tenn. Sup. Ct. R. 8, RPC 5.5(d) have not been fully understood by some in-house counsel. As a result, in-house counsel who filed applications for comity admission rather than first seeking to obtain a registration license as in-house counsel have found themselves in the same untenable position as other lawyers moving to Tennessee to take a job offer, but also end up foreclosed from obtaining the in-house registration license they otherwise were eligible for because more than 180 days of employment had passed before learning of the problem with their comity application.

These problems, arising from the language added to Section 5.01 in 2011 about conditions precedent for comity admission, have resulted in the TBLE having a significant number of applicants for admission (both in-house counsel and other attorneys) who present no character or fitness questions and to whom the TBLE would otherwise grant admission but for whom the TBLE appears not to have discretion to grant admission because of the language of Tenn. Sup. Ct. R. 7, § 5.01 and because of the strict 180-day time period under Tenn. Sup. Ct. R. 7, § 10.01. As a result, it is believed that there are a significant number of applicants for

admission by waiver or in-house counsel registration in Tennessee whose matters are being formally, or informally, held in abeyance by the TBLE in hopes that the Court will adopt revisions to Rule 7 that will permit these candidates to be licensed. Some applicants have endured uncertainty for lengthy periods of time, as the TBLE first began communicating to some applicants as early as the summer of 2014 about the intent to seek revisions to the Rule, and it is understood that some matters have been in such a holding pattern for approximately a year. The TBA lauds the TBLE for its efforts to recognize and address these problematic issues in its March 12, 2015 petition.

D. Military Spouses.

In an April 6, 2015 filing in response to the TBLE's petition, a group of lawyers raised an altogether different concern regarding the Tenn. Sup. Ct. R. 7 treatment of lawyers licensed in other jurisdictions. That group proposed a revision to the rules that would ameliorate the particular hardships that frequent relocation can pose in meeting the requirements for comity admission for practicing lawyers who are married to persons in active military service. By order dated April 13, 2015 the Court then put that separate proposal out for public comment as well.

THE TBA POSITION AND PROPOSED REVISIONS

A. Comity Admissions

The TBA agrees with the TBLE proposal to revise Tenn. Sup. Ct. R. 7, § 5.01 to permit greater flexibility in practice pending admission and to fix the problem arising from the language added in 2011 which made comity admission in compliance with the rule a practical impossibility for anyone relocating to Tennessee to take a job as a lawyer. As such, the TBA supports the TBLE proposal to better delineate in Tenn. Sup. Ct. R. 7, § 5.01 the conditions that

should actually be prerequisites for comity admission. The TBA also agrees generally with the TBLE effort in its proposed Tenn. Sup. Ct. R. 7, § 1.01 to more clearly identify the various rules providing exceptions and special permissions for practice beyond the general license requirement articulated in Section 1.01(a).² Because of concerns with some of the other aspects of the TBLE's proposed revisions to Section 5.01 relating to comity admission, the TBA also has proposed, as detailed in Exhibit 1 to this comment, modified versions of Tenn. Sup. Ct. R. 7, §§ 5.01(a), (c), and (d). As one example of such a concern, the TBA does not agree that how much money a lawyer makes in a year or how many hours they can prove having worked should be determinative factors in this rule as to whether something counts as the "active" practice of law and therefore offers a proposed Section 5.01(c) without those additional requirements.

The TBA also agrees with the TBLE that the time has certainly come for Tennessee to have provisions in place to allow practice pending admission under Tenn. Sup. Ct. R. 7. However, the TBA disagrees with the TBLE's specific proposal on that subject. The TBLE's proposal would impose the same requirements and restrictions for a brand-new law school graduate waiting for bar exam results and a lawyer relocating to Tennessee after having been licensed for ten years in another U.S. jurisdiction. The TBA respectfully submits that this is not a situation in which one size fits all. Instead, as is detailed in Exhibit 1 to this comment, the TBA is proposing a two-track approach to permitting the practice of law in Tennessee pending admission.

Under the TBA's proposal, Tenn. Sup. Ct. R. 7, § 5.01(g) would govern practice pending admission (and § 5.01(h) would identify the grounds for termination of that right of practice) for

² The TBA differs with the TBLE a bit on the details of those proposed revisions and has proposed modifications to Tenn. Sup. Ct. R. 7, § 1.01(b) and (c), as detailed in Exhibit 1 to this comment. The TBA submits that its modifications more accurately and comprehensively capture the various rules and special permissions that should be acknowledged as exceptions to Section 1.01(a)'s mandate, including a cross-reference that assumes that the Court will adopt some version of the proposed Section 1.07 to address the military spouse admission issue.

lawyers who are already licensed in at least one other U.S. jurisdiction. Under the TBA's proposal, comity applicants as well as lawyers already licensed in another U.S. jurisdiction who, for whatever reason, have opted to sit for the Tennessee bar examination, would be able to provide legal services in Tennessee and establish an office or other systematic and continuing presence in the state for up to 365 days while their application for admission is pending. This ability to practice pending admission would be available only to lawyers who could satisfy all of the ten enumerated requirements and restrictions set out in Section 5.01(g). The TBA's proposal in this regard is modeled upon, but not identical to, the ABA Model Rule for Practice Pending Admission. The TBA urges the Court to adopt this kind of practice pending admission regime for applicants already licensed in another U.S. jurisdiction rather than the TBLE's proposal to treat them the same for these purposes as law school graduates seeking their first law license.

For as yet unlicensed law school graduates awaiting results of the Tennessee bar examination, the TBA proposes Tenn. Sup. Ct. R. 7, § 10.04 continue to separately address those circumstances. Because the TBA believes that the current rule governing that situation is not broken, the TBA's proposal works from the language of that section in the existing rule but has made some modifications, including revising § 10.04(a)(i)(3) to remove the current registration requirement for law graduates who are only performing office work.

B. In-house Counsel

The TBA agrees with and urges adoption of the TBLE's proposal to provide a new 180-day "amnesty" period for people presently working as in-house counsel for employers in Tennessee and fully supports the TBLE proposed changes to Tenn. Sup. Ct. R. 7, § 10.01 and Tenn. Sup. Ct. R. 8, RPC 5.5(d). The TBA believes those changes (especially when coupled with renewed efforts by the TBLE to provide education and publicity about this issue) should

better educate current, and future, in-house lawyers in Tennessee about the importance of meeting the 180-day deadline for registration. As detailed in Exhibit 1 to this comment, the TBA does suggest adding a new subsection to Tenn. Sup. Ct. R. 7, § 10.01. The TBA's proposed Section 10.01(i) would make explicit what the TBA, and we believe the TBLE and BPR as well, have implicitly understood to be true since the registration concept was first adopted by this Court – that as long as a timely application for registration is made by day 180, then the work performed by the in-house lawyer during days 1 through 179 is not subject to attack, under the ethics rules or otherwise, as the unauthorized practice of law.

C. Admission by Examination of Lawyers licensed in other states who are graduates of schools approved by other states

Since the time that the TBA opposed the sort of change the TBLE now advocates, the landscape has changed. A significant additional number of states now permit lawyers graduating from law schools recognized only in their home jurisdiction to seek admission in their state. As a result, the TBLE petition indicates that now such a position is embraced by 36 states. In addition to the changed landscape, the TBLE proposal now offers stricter standards for admission, character, and fitness and the proposed rule would not permit correspondence courses. For these reasons, the TBA no longer opposes such a revision to Rule 7. The TBA is proposing one minor deviation from the TBLE proposal on this point. The TBA would reconcile the number of years practice provision with that for comity admission under § 5.01(a) to make the lawyer's practice requirement be for 5 of the last 7 years.

Thus, the TBA submits that Tenn. Sup. Ct. R. 7, § 2.01(c)(ii) should read: "The attorney has been actively and substantially engaged in lawful practice of law at his or her principal

business or occupation for at least 5 of the last 7 years immediately preceding the filing of the application.

D. Military Spouse Admission.

The TBA certainly understands the plight that spouses of active members of the military can endure with respect to their own employment issues because of the need for frequent relocation. The difficulty for those who are members of the legal profession is articulately explained in the April 6, 2015 proposal for amendment to Tenn. Sup. Ct. R. 7 by adding a new Section 1.07. The TBA understands that any rule change in this regard will likely impact a very small number of people in Tennessee. However, even if only a handful of lawyers who are spouses of military servicemembers are able to take advantage of such a rule change, the TBA believes the benefits of doing so appear to outweigh any risks for Tennessee consumers of legal services or the administration of justice in Tennessee.

The TBA does believe, as detailed in Exhibit 2 to this comment, that a modification to the proposed Section 1.07 is in order. Because of the inherent uncertainty as to length of stay that serves as the justification for the rule change in the first place, the TBA respectfully disagrees that a three-year temporary license with an opportunity for a two-year renewal period is the correct approach. Given that the proposal seeks a temporary license that would span for multiple years in length, the proposal identifies and provides in its Section 1.07(e) numerous provisions triggering “termination” of the license as well as various “wind down” periods of differing length after termination to permit continued practice presumably for transitioning client matters to other lawyers. Those provisions, though, are unnecessarily complex and may have unintended consequences. For example, such an approach could end up creating a court rule that appears to

encourage, or even pressure, an unhappy spouse to remain married out of a fear of harming a client whose matter may have pending deadlines.


The TBA's modified proposal, as shown in Exhibit 2 to this comment, involves a more straightforward renewable, one-year, temporary right to practice under Tenn. Sup. Ct. R. 7, § 1.07. The TBA approach supplants a longer initial period that might have to be required to terminate upon certain future events with a one year right of practice that is renewable for additional one-year periods for as long as the requirements for issuance of the license in the first instance continue to be met. If circumstances have changed and the lawyer would no longer qualify for the license, then the license simply expires at the end of the initial year or at the end of any renewal year. This is similar to approach adopted in Arizona, Idaho, and Virginia


E. Transition Issues.


Finally, because of the number of lawyers currently in Tennessee who have been impacted by the current rules and uncertainty over how the rules might be amended to resolve these issues raised by the TBLE's petition, the TBA asks this Court, to include in any Order adopting a new version of Rule 7 the following language to address the transition period:


From and after *[date of entry of this Order]* and continuing until *[the one-year anniversary of the effective date of the new provisions]*, the Court specifically directs the Board of Law Examiners to use discretion in adjudicating pending applications that have not been finally ruled upon, including waiving or altering time periods or otherwise varying provisions, to tailor such discretion toward granting the applicant's application for comity admission as long as the Board otherwise reaches the conclusion that the lawyer possesses the character and fitness to practice law in this jurisdiction.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing has been served upon the individuals and organizations identified in Exhibit "3" by regular U.S. Mail, postage prepaid within seven (7) days of filing with the Court.



Allan F. Ramsaur

Exhibit 1

Comparison of our working proposal to the BLE's petition

Sec. 1.01. Prerequisites to Engaging in Practice of Law or Law Business.

No person shall engage in the "practice of law" or the "law business" in Tennessee as defined in T.C.A. § 23-3-101, unless:

(a) he or she has been:

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

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

(b) he or she is practicing in compliance with Tenn. Sup. Ct. R. 8, RPC 5.5(c), Tenn. Sup. Ct. R. 8, RPC 5.5(d), or Tenn. Sup. Ct. R. 19 (pro hac vice); or

~~(cb) he or she has been granted permission to engage in special or limited practice under the provisions of Section 1.07, Section 5.01(g), Section 10.01, or Section 10.04 Article X of this Rule, Tenn. Sup. Ct. R. 8, RPC 5.5(c), 5.5(d)(2), or Tenn. Sup. Ct. R. 19 (pro hac vice).~~

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

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

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

(ii) have been admitted by bar examination to practice law in one or more states, territories, or the District of Columbia;

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

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

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

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

jurisdiction.

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

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

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

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

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

(ii) For the purposes of this rule, in addition to the definitions of “Practice of Law” and “Law Business” in T.C.A. § 23-3-101, the “active practice of law” may be construed in the Board's discretion as being actively engaged in other full-time employment requiring interpretation of law and application of legal knowledge if performed in a jurisdiction in which the applicant is admitted, or if performed in a jurisdiction that permits such activity by a lawyer not admitted to practice; however, in no event shall any activities that were performed pursuant to § 10.04 of this Rule or in advance of bar admission in some state, territory or the District of Columbia be accepted toward the durational requirement. The Board shall consider such evaluative criteria as time devoted to legal work, the nature of the work, whether legal training or a law license was a prerequisite of employment, and other similar matters. ~~Notwithstanding the foregoing, the “active practice of law” is further defined to require that at all times in the durational period the applicant has:~~

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

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

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

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

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

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

(i) file an application for admission on motion, including character investigation information, in a manner established by the Board, including all required supporting documents;

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

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

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

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

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

(g) Practice Pending Admission. A lawyer currently holding an active license to practice law in another U.S. jurisdiction and who has submitted an application for admission upon motion in compliance with this Section 5.01 or an application for examination in compliance with Section 3.03 may provide legal services in this jurisdiction through an office or other systematic and continuous presence during the pendency of their application for admission on motion but for no more than 365 days, provided that the lawyer:

(i) is not disbarred or suspended from practice in any jurisdiction;

(ii) has not been previously been denied admission to practice in this jurisdiction;

(iii) reasonably expects his/her application for admission to be granted;

(iv) notifies the Board of Professional Responsibility in writing within 30 days of first establishing an office or other systematic and continuous presence for the practice of law in this jurisdiction that the lawyer has done so pursuant to the authority in this Section 5.01;

(v) associates with a lawyer who is admitted to practice in Tennessee;

(vi) complies with Tenn. Sup. Ct. R. 8, RPC 7.1 and RPC 7.5 in all communications with the public and clients regarding the nature and scope of the lawyer's practice authority in Tennessee;

(vii) *insert language here about what fee they have to pay*

(viii) does not appear before a tribunal in Tennessee that requires *pro hac vice* admission unless the lawyer is granted such admission;

(ix) has never before practiced in Tennessee pursuant to this provision; and

(x) notifies the Board of Professional Responsibility and the Board if the lawyer becomes the subject of a pending disciplinary investigation in any other jurisdiction at any time during the period of practice authorized under this provision.

(h) Termination of Right of Practice Pending Admission. The right to practice pending admission established by Section 5.01 terminates if the lawyer withdraws the application for admission or if such application is denied; if the lawyer becomes disbarred, suspended, or takes disability inactive status in any other jurisdiction in which the lawyer is licensed to practice law; or if the lawyer fails to timely provide the written notice required by Section 5.01(g)(iv). Upon termination of the right of practice, the lawyer shall not undertake any new representation that would require the lawyer to be admitted to practice law in this jurisdiction and, within 10 days, shall:

(i) cease to occupy an office or other systematic and continuous presence for the practice of law in Tennessee unless authorized to do so pursuant to another Rule;

(ii) notify all clients being represented in pending matters, and opposing counsel or co-counsel of the termination of the lawyer's authority to practice pursuant to Section 5.01; and

(iii) take all other necessary steps to protect the interests of the lawyer's clients.

Sec. 5.02. Additional Considerations.

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

ARTICLE X. SPECIAL OR LIMITED PRACTICE

Sec. 10.01. Registration of In-house Counsel

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

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

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

- (i) The registered lawyer is authorized to provide legal services to the entity client or its organizational affiliates, including entities that control, are controlled by, or are under common control with the employer, and for employees, officers and directors of such entities, but only on matters directly related to their work for the entity and only to the extent consistent with Tenn. Sup. Ct. R. 8, RPC 1.7; and
- (ii) The registered lawyer shall not:
 - (A) Except as otherwise permitted by the rules of this jurisdiction, appear before a court or any other tribunal as defined in Tenn. Sup. Ct. R. 8, RPC 1(m), or
 - (B) Offer or provide legal services or advice to any person other than as described in paragraph (b)(i), or hold himself or herself out as being authorized to practice law in this jurisdiction other than as described in paragraph (b)(i).

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

(d) A lawyer registered under this section shall:

- (i) Pay all annual fees payable by active members of the bar;
- (ii) Fulfill the continuing legal education requirements that are required of active members of the bar;
- (iii) Report to the Board, within 30 days, the following:

- (A) Termination of the lawyer's employment;
- (B) Whether or not public, any change in the lawyer's license status in another jurisdiction, including by the lawyer's resignation;
- (C) Whether or not public, any disciplinary charge, finding, or sanction concerning the lawyer by any disciplinary authority, court, or other tribunal in any jurisdiction.

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

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

- (i) The lawyer's employment terminates;
- (ii) The lawyer is suspended or disbarred from practice in any jurisdiction or any court or agency before which the lawyer is admitted; or
- (iii) The lawyer fails to maintain active status in at least one jurisdiction.

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

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

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

(h) A lawyer under this rule who fails to register within 180 days shall be:

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

(i) A lawyer's rendering of services to their employer prior to timely registration under this Rule shall not constitute the unauthorized practice of law or otherwise be treated as violating Tenn. Sup. Ct. R. 8, RPC 5.5 as long as the services are permitted under this Rule for registered lawyers and the lawyer files their application for registration within 180 days of the commencement of their employment.

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

Sec. 10.04 Law School Graduate Practice before Admission.

(a) Eligibility.

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

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

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

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

(3) has taken the examination, but has not yet been admitted as a member of the Tennessee bar, may perform the services described in paragraph (c)(i) of this rule and may register with the Board in order to perform the services described in paragraph (c)(ii) of this rule.

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

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

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

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

(b) Registration Process. In order to perform the services described in paragraph (c), the applicant must have submitted to the Board the NCBE application, completed the Tennessee Supplemental application process and paid the fees associated with the application. Additionally,

the applicant must have registered for supervised practice according to the procedures established by the Board and paid the required fee. The registration must include an affidavit from an attorney licensed and in good standing in Tennessee stating that the attorney agrees to undertake the supervision of the applicant in accordance with this Rule.

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

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

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

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

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

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

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

~~(iii)~~ (5) In matters before appellate courts of review, the applicant may prepare briefs, excerpts from record, abstracts, and other documents. ~~filed in courts of review of the State, which may~~ If any such filings set forth the name of the applicant as a counsel of record in addition to the supervising member of the bar, the name of the applicant must be accompanied by the ~~with the~~

~~accompanying~~ designation "Tennessee Bar Applicant" but must be filed in the name of the supervising member of the bar. Upon motion by the supervising member of the bar, the applicant may request authorization to argue the matter before the appellate court of review but, even i If the applicant is permitted to argue, the supervising member of the bar must be present and responsible for the conduct of the hearing.

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

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

Exhibit 2

Temporary Admission of a Military Spouse Rules of the Supreme Court of the State of Tennessee

Rule 7. Licensing of Attorneys

Section 1.07. Temporary Admission of a ~~Military~~ Spouse of a Military Servicemember

(a) Qualifications. An applicant who is the spouse of an active servicemember of the United States Uniformed Services as defined by the United States Department of Defense may be temporarily admitted as a member of the Bar of this Court ~~an attorney of this State~~, without examination, provided that the applicant:

- (1) has been admitted and licensed to practice law, after examination, ~~in as an attorney of another state, commonwealth, or territory~~ of the United States or in the District of Columbia with educational qualifications for admission to the bar equivalent to those of this State; and
- (2) possesses the moral character and fitness required of all applicants for admission in this State; and
- (3) has not failed the Tennessee bar examination; and
- (4) resides in Tennessee or Fort Campbell, Kentucky, due to the servicemember's military orders; and

(5) is at the time of application an active member of the bar in good standing in at least one jurisdiction of the United States; and

(6) is a member of the bar in good standing in every jurisdiction to which the applicant has been admitted to practice, or has resigned or been administratively revoked while in good standing from every jurisdiction without any pending or later disciplinary actions.

(b) Application for Temporary Admission. An application for temporary admission shall be made, without fee required, to the Board of Law Examiners, in accordance with its rules. Upon receipt of an application for temporary admission, the Board of Law Examiners shall expeditiously determine whether the applicant meets each of the requirements set forth in paragraph (a) of this Section, and present the application to the Clerk of the Supreme Court for appropriate disposition. In addition to the completed application, the applicant must submit:

(1) a completed character questionnaire; and

(2) a copy of the Applicant's Military Spouse Dependent Identification; and

(3) documentation evidencing a spousal relationship with the servicemember; and

(4) a copy of the servicemember's military orders to a military installation in Tennessee or Fort Campbell, Kentucky, or a letter from the servicemember's command verifying that the requirement in paragraph (a)(4) is met; and

(5) Certificate(s) of Good Standing and of Disciplinary History(ies) to demonstrate satisfaction of the requirements of (a)(6) of this rule; and

(6) all other documentation as required in the character application process by the Board of Law Examiners.

(c) Duration and Extension.

(1) A temporary license to practice law issued under this rule will be valid for ~~two~~three ~~one~~ years and will terminate as set forth in paragraph (e) below. ~~Holders of a temporary license have an affirmative duty to immediately notify the Board of Law Examiners within thirty (30) days upon occurrence of any event in paragraph (e)(5)-(8) which will cause the temporary license to expire.~~

(2) Persons who hold a temporary license under this provision may apply, without additional fee, for a ~~two~~one-year extension to their license if they submit an application for extension verifying that they continue to meet all of the qualifications for a temporary license as set forth in paragraph (a) ~~and (b)~~ above. Requests for extension must be submitted to the Board of Law Examiners at least one month prior to the expiration of the temporary license ~~and must include a copy of the servicemember's military orders or a letter from the servicemember's command verifying that the requirement in paragraph (a)(4) is met.~~ Requests for extension must be approved by the Board of Law Examiners and approved by the Supreme Court to be effective.

(d) Practice Requirements. During the duration of the temporary license, the temporary attorney shall: (1) comply with the Rules of the Supreme Court of the State of Tennessee; (2) comply with the registration requirements as required for all Tennessee licensed attorneys; ~~and~~ (3) make payment of annual ~~fees assessments~~ as required of all Tennessee licensed attorneys; ~~and give notice to their clients, in writing, regarding the special, temporary nature of their admission.~~

(e) Termination. The temporary license shall expire:

(1) upon the temporary attorney's failure to meet any licensing requirements applicable to all active attorneys possessing a license to practice law in this state; or

(2) upon the request of the temporary attorney; or

(3) upon the issuance to the temporary attorney of a Tennessee license under Article III (by examination) or Article V (by comity admission) of these rules; or

(4) upon receipt by the temporary attorney of a failing score on the Tennessee bar examination; or

(5) upon suspension ,disbarment or other action affecting their good standing with the bar of this State,

~~(5) sixty days months following the date of permanent relocation of the servicemember outside of Tennessee or Fort Campbell, Kentucky, except when such relocation is due to unaccompanied orders for a permanent change of station outside of Tennessee; or~~

~~(6) sixty days months following the date of termination of the temporary attorney's spousal relationship to the servicemember; or~~

~~(7) if the temporary attorney ceases to reside in Tennessee or Fort Campbell, sixty days months following the date when the temporary attorney ceased to reside in Tennessee or Fort Campbell; or~~

~~(8) sixty days~~ months following the date of the servicemembers's death, separation or retirement from the United States Uniformed Services; or

~~(8) one year~~ following the date of the event of the servicemember's death, separation or retirement from the United States Uniformed Services, or divorce or marital separation from the servicemember, provided that during the first ~~sixty days~~ months following the date of such event the temporary attorney applies to sit for the Tennessee bar examination.

Exhibit 3

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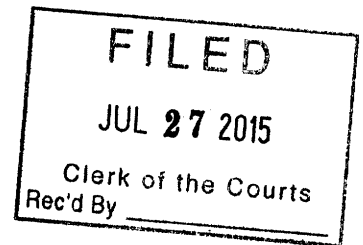
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IN THE SUPREME COURT OF TENNESSEE
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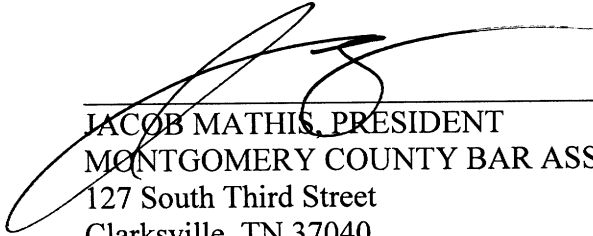


**IN RE: AMENDMENT OF RULES 6, 7, AND 8 (RPC 5.5),
RULES OF THE TENNESSEE SUPREME COURT**

No. ADMIN2015-00443

NOTICE OF FILING

Comes now the Montgomery County Bar Association and submits the attached Resolution in Opposition of Proposed Rule Change for Licensing of Military Spouse Attorneys as a written comment to the proposed Rule change.



JACOB MATHIS, PRESIDENT
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FILED

JUL 27 2015

Clerk of the Courts

RESOLUTION IN OPPOSITION OF PROPOSED RULE CHANGE FOR

LICENSING OF MILITARY SPOUSE ATTORNEYS

BE IT RESOLVED that the Montgomery County Bar Association Board of Directors hereby adopts this Resolution in opposition of the proposed rule change for the temporary licensing of attorney spouses of military service members currently pending public comment to The Supreme Court of Tennessee. The proposed rule change would amend various provisions of Tennessee Supreme Court Rules 6, 7, and 8, and more specifically Rule 8, RPC 5.5, which govern admission and licensing of attorneys.

Due to our proximity to the U.S. Army Base at Ft. Campbell, Kentucky, and therefore, most likely affected by the proposed rule change, the Montgomery County Bar Association opposes the current proposed rule change for the TEMPORARY ADMISSION OF A MILITARY SPOUSE. The Montgomery County Bar Association recognizes the need to protect the citizens of the State of Tennessee and feels the current proposal lacks the oversight necessary to effectively supervise those that could use this rule to gain admission if the current proposal is granted.

While the Montgomery County Bar Association recognizes that military spouse attorneys face significant barriers to admission when their service member is assigned for duty in Tennessee and they are not licensed to practice in this state, this rule change would allow temporary admission with no oversight requirements from traditionally licensed attorneys which may detrimentally effect the high standards of the legal community within our state. The Montgomery County Bar Association urges the rejection of the proposed rule and/or suggests modifying the proposal to mirror the current similar proposal to amend the Rules of the Supreme Court of Kentucky (a copy of which is attached hereto), which requires any attorney temporarily

admitted to practice under this rule to work under the supervision and direction of local counsel. As with traditional Pro Hac Vice admissions, such a requirement would insure that clients have assistance from an attorney with a working knowledge of Tennessee state law.

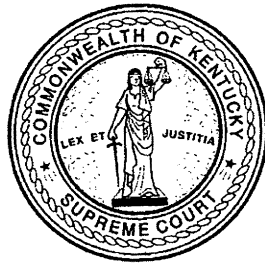
In rejecting the proposed rule changes the Supreme Court of Tennessee will prevent attorneys who are unfamiliar with and untrained regarding Tennessee state law from practicing in this State without property supervision and oversight, effectively protecting the citizens of the State of Tennessee.

ADOPTED: June 4, 2015.



JACOB MATHIS, PRESIDENT
MONTGOMERY COUNTY BAR ASSOCIATION

Supreme Court of Kentucky



PROPOSED AMENDMENTS TO THE RULES OF THE SUPREME COURT (SCR)

The following Proposed Rules Amendments will be considered in an open session beginning at 8:30 a.m. on Wednesday, June 17, 2015. The hearing will be conducted in the Bluegrass Ballroom at the Lexington Convention Center in Lexington.

These proposals have been submitted by practitioners for consideration by the Justices of the Supreme Court of Kentucky.

I. **SCR 2.018 Application [packets] Process**

The proposed amendments to the title of SCR 2.018:

II. **SCR 2.113 Military Spouse Provisional Admission.**

The proposed new rule SCR 2.113 would read:

1. Requirements. A person who meets all requirements of subparagraphs (a) through (m) of paragraph 2 of this Rule may, upon motion, be provisionally admitted to the practice of law in Kentucky.

2. Required Evidence. The applicant for provisional admission shall submit evidence satisfactory to the Kentucky Board of Bar Examiners that he or she:

(a) has been admitted by examination to practice law before the court of last resort of any state or territory of the United States or of the District of Columbia;

(b) holds a Juris Doctor degree from a law school accredited by the American Bar Association at the time of such applicant's graduation;

(c) has achieved a passing score on the Multistate Professional Responsibility Examination as it is established in Kentucky at the

time of application;

(d) is currently an active member in good standing in at least one state or territory of the United States, or the District of Columbia, where the applicant is admitted to the unrestricted practice of law, and is a member in good standing in all jurisdictions where the applicant has been admitted;

(e) is not currently subject to lawyer discipline or the subject of a pending disciplinary matter in any other jurisdiction;

(f) possesses the good character and fitness to practice law in Kentucky;

(g) is the dependent spouse of an active duty service member of the United States Uniformed Services as defined by the Department of Defense (or, for the Coast Guard when it is not operating as a service in the Navy, by the Department of Homeland Security) and that the service member is on military orders stationed in the Commonwealth of Kentucky;

(h) is physically residing in Kentucky;

(i) has submitted all requested character investigation information, in a manner and to the extent established by the Board of Bar Examiners, including all required supporting documents;

(j) has never failed the Kentucky Bar Examination;

(k) has completed twelve (12) hours of instruction approved by the Kentucky Continuing Legal Education Board on Kentucky substantive and/or procedural law, including four (4) hours of ethics, within the six-month period immediately preceding or following the filing of the applicant's application;

(l) certifies that he or she has read and is familiar with the Kentucky Rules of Professional Conduct; and

(m) has paid such fees as may be set by the Board of Bar Examiners to cover the costs of the character and fitness investigation and the processing of the application.

3. Issuance, Duration and Renewal.

(a) The Board of Bar Examiners having certified that all prerequisites have been complied with, the applicant for provisional admission shall, upon payment of applicable dues and completion of the other membership obligations, become an active member of the Kentucky Bar Association. An attorney provisionally admitted pursuant to this Rule shall be subject to the same membership obligations as other active members of the Kentucky Bar Association, and all legal services provided in Kentucky by a lawyer admitted pursuant to this Rule shall be deemed the practice of law and shall subject the attorney to all rules governing the practice of law in Kentucky, including the Kentucky Rules of Professional Conduct.

(b) A provisional admission may be renewed by July 31 of each year, upon filing with the Kentucky Bar Association (i) a written request for renewal, (ii) an affidavit by supervising Local Counsel, who certifies to the provisionally admitted attorney's continuing employment by or association with Local Counsel and to Local Counsel's adherence to the supervision requirements as provided under this Rule, and (iii) compliance with the membership obligations of the Rules of the Supreme Court of Kentucky applicable to active members of the Kentucky Bar Association.

(c) When the active duty service member is assigned to an unaccompanied or remote follow-on assignment and the attorney continues to physically reside in Kentucky, the provisional admission may be renewed until that unaccompanied or remote assignment ends, provided that the attorney complies with the other requirements for renewal.

4. Supervision of Local Counsel. A person provisionally admitted to practice under this Rule may engage in the practice of law in this jurisdiction only under the supervision and direction of Local Counsel.

(a) As used in this Rule, Local Counsel means an active member in good standing of the Kentucky Bar Association, whose office is in Kentucky.

(b) Local Counsel must provide to the Kentucky Bar Association his or her Kentucky Bar number, physical office address, mailing address, email address, telephone number, and written consent to serve as Local Counsel, on the form provided by the Board of Bar Examiners.

(c) Unless specifically excused from attendance by the trial judge, Local Counsel shall personally appear with the provisionally admitted attorney on all matters before the court.

(d) Local Counsel will be responsible to the courts, the Kentucky Bar Association, the Supreme Court of Kentucky, and the client for all

services provided by the provisionally admitted attorney pursuant to this Rule.

(e) Local Counsel is obligated to notify the Executive Director of the Kentucky Bar Association when the supervising relationship between the provisionally admitted attorney and Local Counsel is terminated.

5. Events of Termination. An attorney's provisional admission to practice law pursuant to this Rule shall immediately terminate and the attorney shall immediately cease all activities under this Rule upon the occurrence of any of the following:

(a) The spouse's discharge, separation or retirement from active duty in the United States Uniformed Services, or the spouse's no longer being on military orders stationed in the Commonwealth of Kentucky, except as provided in section 3(c) of this Rule.

(b) Failure to meet the annual licensing requirements of an active member of the Kentucky Bar Association;

(c) The absence of supervision by Local Counsel;

(d) The attorney no longer physically residing within the Commonwealth of Kentucky;

(e) The attorney ceasing to be a dependent as defined by the Department of Defense (or, for the Coast Guard when it is not operating as a service in the Navy, by the Department of Homeland Security) on the spouse's official military orders;

(f) The attorney being admitted to practice law in this Commonwealth under an admissions rule other than that of Provisional Admission;

(g) The attorney receiving a failing score on the Kentucky Bar Examination;

(h) The attorney being suspended from the practice of law in Kentucky; or

(i) Request by the attorney.

6. Notices Required.

(a) An attorney provisionally admitted under this Rule shall provide written notice to the Kentucky Bar Association of any Event of Termination within thirty (30) days of the occurrence thereof.

(b) Within thirty (30) days of the occurrence of any Event of Termination, the attorney shall:

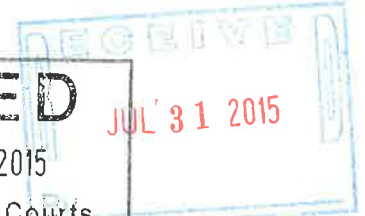
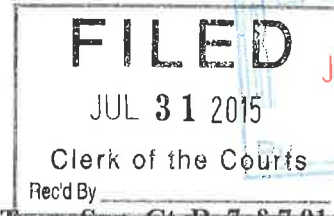
(i) provide written notice to all his or her clients that he or she can no longer represent such clients and furnish proof to the Executive Director of the Kentucky Bar Association within sixty (60) days of such notification; and

(ii) file in each matter pending before any court or tribunal in this Commonwealth a notice that the attorney will no longer be involved in the matter, which shall include the substitution of the Local Counsel, or such other attorney licensed to practice law in Kentucky selected by the client, as counsel in the place of the provisionally admitted attorney.

7. Benefits and Responsibilities. An attorney provisionally admitted under this Rule shall be entitled to the benefits and be subject to all responsibilities and obligations of active members of the Kentucky Bar Association, and shall be subject to the jurisdiction of the

July 30, 2015

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



Re: Comment Concerning Proposal to Amend Tenn. Sup. Ct. R. 7, § 7.01

**IN RE AMENDMENT OF RULES 6, 7, AND 8 (RPC 5.5), RULES OF THE
TENNESSEE SUPREME COURT, No. ADMIN2015-00443**

Dear Mr. Hivner:

I write to comment on the amendments to Rule 7, § 7.01, "Foreign-Educated Applicants," proposed by the Tennessee Board of Law Examiners (the "Board.") To summarize my concerns, the proposed § 7.01 amendments:

- (1) conflict with the Board's proposed amendment to § 2.02(d) and the educational judgments of the American Bar Association ("ABA") and law deans, upon which the Board otherwise relies in its proposals, by prohibiting on-line and in-person distance learning;
- (2) will weaken the current 24 credit-hour requirement for all foreign-educated applicants, while arbitrarily excluding some of the most promising foreign-educated applicants; and
- (3) are redundant given the existing provisions of § 7.01, and § 7.01(b)(i) contains an inadvertent but potentially confusing drafting error.

I write as Dean of Handong International Law School ("HILS"), which is located in South Korea, based on my twelve years of experience here in international U.S. legal education.¹ No other law school outside the U.S. focuses exclusively on teaching U.S. law under conditions and

¹With respect to my personal background, I received degrees from Yale University, B.A., and Washington University, J.D.; clerked for the Hon. Richard S. Arnold, U.S. Court of Appeals for the Eighth Circuit; became a member of the Missouri and Illinois bars, and practiced international intellectual property law in St. Louis, Missouri, at Blackwell Sanders Peper Martin LLP, before joining HILS in South Korea.

requirements that are “substantially equivalent” to those at an ABA-approved law school, e.g., 3-year residence, comprehensive U.S. common-law and practical skills curriculum, all U.S.-lawyer faculty, exclusively taught in English, Socratic method, U.S. casebooks, etc. This equivalence is part of what the current § 7.01 already requires for foreign-educated applicants. Although the ABA will not consider foreign law schools for ABA approval, the boards of bar examiners in Alabama, California, Missouri and Tennessee have all found that HILS offers the substantial equivalent of a U.S. ABA-approved J.D. education and, thus, upheld HILS graduates’ qualification to become members of their respective bars. (HILS J.D., despite its focus on U.S. law, has also been recognized in India and Pakistan as qualifying graduates to become members of their common-law bars.) In the case of Tennessee, the Tennessee Board of Law Examiners has itself determined the equivalence of a HILS J.D. to an ABA-approved J.D. approximately one hundred times, from 2005 to 2010, when HILS graduates successfully applied to sit for the Tennessee bar examination on the basis of the former § 7.01.

I also write for the 89 HILS alumni who became members of the Tennessee Bar during those years. They were all admitted to the Tennessee bar upon examination and based on the Board’s finding that a HILS J.D. legal education was “substantially equivalent” to a U.S. ABA-approved law school. These 89 have worked in internationally prominent corporations as in-house counsel (Samsung; SK; Posco; LG; Kumho; EASports, Blizzard Entertainment), law firms (Paul Hastings; Clifford Chance; Kim & Chang), and in other positions, both governmental and private (e.g., elected to the Seoul City Council; Researcher Korea Supreme Court; Judge Advocates Office of the 8th U.S. Army in Korea; Korea Commercial Arbitration Board; Korea Institute of Intellectual Property; Korea Broadcast Advertising Corporation; Samil Pricewaterhouse-Coopers.) The majority work in NGOs, law firms and human rights organizations that are less well known internationally, and many are doing extremely important work to spread American common-law concepts of justice, human rights and the rule of law in countries with limited legal institutions. All currently work outside Tennessee. Wherever they work – currently in countries including China, Korea, India, Pakistan and Vietnam – they serve as conduits between Tennessee, the United States and the world.

Neither the Board nor anyone else has ever suggested that these Tennessee lawyers and HILS alumni are anything other than competent professionals who represent the Tennessee bar well wherever they work, and no one has suggested, much less offered this Court any facts, supporting the conclusion that the Board’s and this Court’s experience with licensing HILS graduates has been the slightest bit problematic, in any way. These HILS graduates are proud to be Tennessee lawyers, and this Court and the Board should be proud to have them as Tennessee lawyers. Unfortunately, as I will discuss below the Board’s proposed amendments will make it far less likely that persons like these again can sit for the Tennessee bar, despite the substantial equivalence of their legal education with a U.S. J.D..

Without Amendment, Rule 7, § 7.01, Already Sets A Demanding Standard Which Few Foreign-Educated Applicants Can Meet

Currently, this Court's Rule 7, § 7.01, requires foreign-educated applicants for the Tennessee bar examination to prove both that they received the substantial equivalent of an ABA-approved J.D. education abroad and that they have "successfully completed at least 24 semester hours in residence at a law school approved by the American Bar Association." As already mentioned, the first requirement alone rules out most foreign-educated applicants. Outside of HILS, there are very few schools whose legal education even attempts to meet ABA curricular standards and thus to qualify an applicant under the "substantial equivalence" requirement. Very few schools outside the U.S. offer a three-year U.S. law curriculum in English, much less have the kind of faculty, U.S. law library and other facilities equivalent to those required by ABA Standards.

While applicants must first establish that they attended a foreign U.S.-style law school that was substantially equivalent to an ABA-approved school in curriculum and method, this is not enough to meet Tennessee's current standard. Additionally, they must demonstrate that, in the course of their substantially-equivalent education or thereafter, they earned at least 24 hours from an ABA-approved law school or from a Tennessee law school approved under § 2.03 of this Court's Rule 7.

In sum, the current § 7.01 is very demanding and adequate. I turn now to my three concerns about the conflicts, weakening effect and redundancies which would result from the Board's proposed amendments to § 7.01.

1) The Board's Proposed Changes to § 7.01 Conflict With Its Proposed § 2.02(d) and the Educational Judgment of the American Bar Association.

The Board's proposed amendments to § 7.01 would alter the 24 ABA credit-hour requirement, *inter alia*, so that applicants may not qualify by participating in an ABA-approved law school's off-site and distance classes. As discussed below, the ABA, along with the Law Deans advising the Board, otherwise recommend such off-site classes. The ABA, the Law Deans and even the Board itself recognize the educational value of off-site and distance learning but would prohibit it only for foreign-educated applicants. Under the Board's proposal, foreign-educated applicants' classes must be:

[Proposed § 7.01(b)(iii)] ... in the United States or its territories and must be attended on site at the ABA accredited or Tennessee approved law school."²

The Board proposes this because many ABA schools currently offer distance learning and off-site classes to all their students, domestic and foreign. Foreign-educated applicants, accordingly, can currently fulfill their 24-hour requirement without financially

² See Exhibit A, p. 31, Tennessee Board of Law Examiners' Petition to Amend Tennessee Supreme Court Rules 6,7, and 8, (RPC 5.5) Governing Admission and Licensing of Attorneys ("Board Petition").

impossible travel or relocation to the U.S.³ As discussed below, because the Board otherwise recognizes the equal educational value of such off-site distance-learning classes, its proposed § 7.01(b)(iii) cannot be justified by a concern about the educational value of off-site classes. It can only be based on the mistaken presumption that foreign-educated applicants cannot benefit from the same educational methods as those students (including those with foreign educational and cultural backgrounds) being educated while living in the United States or its territories. This is adequate cause to reject it.

Additionally, proposed § 7.01(b)(iii)'s prohibition on off-site learning conflicts in policy and rule with the Board's proposed § 2.02(d), which specifically approves "distance" education and is intended to "be applicable to all law school education."⁴ The Board proposes that the currently independent section, § 2.04, which bans correspondence courses, be moved to § 2.02(d) and heavily amended in light of new ABA Standards favoring more interactive, contemporary forms of off-site and distance education:

[Proposed § 2.02](d) No Correspondence Course. No correspondence course will be accepted by the Board as any part of an applicant's legal education to meet the requirements of this rule. **Distance, on-line or other instruction that is not in person will be accepted as part of a curriculum to the extent approved by the American Bar Association for accredited law schools.**⁵ (emphasis added)

The proposed § 7.01(b)(iii) clearly conflicts with this rule: proposed § 2.02(d) would permit "distance, on-line and other instruction that is not in person" but proposed § 7.01(b)(iii) would prohibit it, requiring all classes to be "on site" at the ABA-accredited law school. Again, proposed § 2.02(d) is intended to "be applicable to all law school education" and allows off-site instruction "as part of a curriculum" because the ABA has recognized that it is an important part of legal education. On the other hand, § 7.01(b)(iii) would reject it as part of a curriculum for foreign-educated applicants who most need the kind of practical and flexible course offerings made available through off-site education.

There is also a conflict in policy. As the Board noted in its "Reason for Changes" section explaining the proposed § 2.02(d), "The last sentence regarding other than in-person learning is

³ In the interest of full disclosure, litigation concerning this question and the sufficiency of a HILS J.D. in connection with 24 distance and off-site in-person ABA credits under existing Rule 7 is now pending before the Tennessee Supreme Court on a writ of certiorari. (See *Chong v. Tennessee Board of Law Examiners*, No. M2015-00982-SC-BAR-BLE (Tenn.)) The issue addressed in that litigation relates to the proposed amendment in that adoption of the proposed amendment would decisively prohibit HILS graduates from sitting for the Tennessee Bar Examination.

⁴ Board Petition, p. 4-5. N.B. the reference is to the Petition itself rather than to the accompanying proposed text comprising the Petition's Exhibit A.

⁵ Board Petition, Exhibit A, p. 5.

new and follows a recommendation from Law School Deans.”⁶ The “Law School Deans” advising the Board recommend distance, on-line and other off-site learning because their equal educational value is well established; the ABA has long allowed them.

More recently, the ABA has mandated some off-site learning. The ABA’s new Standard 303 (“Curriculum”) mandates that all ABA-approved law schools require every J.D. student to take six credit hours of “experiential courses,” designed to give an experience of legal practice, including either a “simulation course, law clinic or field placement.” 303(a)(3). By nature, these classes tend to be off-site classes. But, under the Board’s proposed § 7.01(b)(iii) no foreign-educated applicant would allowed to participate in these ABA mandated classes because they would be off-site. The ABA has recently amended a number of other Standards to permit and encourage more off-site educational opportunities, including more on-line distance learning, which has long been allowed but is being expanded in scope. *See*, ABA Standards 305(a) (“Field Placement and Other Study Outside the Classroom”); Standard 306 (“Distance Education”), Standard 307 (“Studies, Activities and Field Placements Outside the United States”)(all allowing off-site class instruction).⁷ (The full text of these ABA Standards is attached hereto as Appendix 1.)

In sum, the proposed § 7.01(b)(iii) conflicts with the authoritative recognition of the value of distance learning and off-site classes by the ABA, the Law Schools Dean advising the Board, and even the Board itself in proposing § 2.02(d). Even though such classes have recognized educational value, the Board would not recognize such courses if taken by foreign applicants. Quite apart from its arbitrary and unjust effect on those who cannot afford to live in the United States, the proposed § 7.01(b)(iii) would also mean that a foreign-educated applicant who moved to the U.S. could not take the very off-site courses that the ABA recently mandated for all U.S. J.D. students. If off-site experiential courses are important enough to require all U.S. J.D. students to earn six credit hours of field placement, clinic or simulations courses, it would be irrational to deny such off-site courses to foreign-educated applicants. This is precisely the perverse effect of the Board’s proposed § 7.01(b)(iii), which seems to aim more to treat foreign applicants differently than to ensure the quality of applicants.

2) Proposed § 7.01(b) Will Weaken the Current 24 Credit-Hour Requirement While Arbitrarily Excluding Some of the Most Promising But Poorer Foreign Students.

In addition to the “on-site” requirement, the Board also proposes to replace the current requirement of 24 credit hours from an ABA-approved law school with the requirement of an

⁶ Id.

⁷They may also be accessed on line at: http://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/council_reports_and_resolutions/201406_revised_standards_clean_copy.authcheckdam.pdf

“LL.M. Degree for the Practice of Law in the United States.”¹⁰ The Board’s stated reason for this proposal is somewhat obscure:

Changes requiring an LL.M. rather than a stated number of credit hours in an LL.M. program and requiring the program to be taught in English in the United States removes any doubt as to the intent of the Board in proposing this revision to the Court.¹¹

Actually, the Board’s intent is unclear. The provision is presented as if it will strengthen the legal-educational requirements for foreign-educated applicants. But the actual effect of replacing the current requirement with an LL.M. degree is to weaken the requirements.

First, LL.M. degrees at ABA-approved law schools can be granted with fewer than 24 hours of credits. For example, both Harvard and UCLA Law School’s LL.M. programs require only 22 hours.¹² Second, for an applicant who has already had three-years of ABA-equivalent U.S. legal education, studying the basics of U.S. law again in an “LL.M. Degree for the Practice of Law in the United States” would be wasteful and easy. Such LL.M. programs are designed for applicants who have studied the law of a foreign country, not for someone who has not had the substantial equivalent of a U.S. J.D. already. By requiring applicants to enter such a program on top of doing the substantial equivalent of a U.S. J.D. abroad, the Board would not be ensuring superior legal education but mere repetition at best. Moreover, by requiring a U.S. J.D. equivalent abroad and then restricting the applicant to repetitive studies in the U.S., the applicant is denied the chance to delve more deeply into U.S. legal subjects or to work on advanced legal skills courses.

Third, unlike the regular law school classes taken as a visiting student, LL.M. program students are often shepherded into different curricula which can be tailored to focus on more basic subjects. Many LL.M. programs have classes specially designed only to be taken by visiting foreign students. It is hardly clear that these classes are more demanding than regular law school classes or that they have any educational advantage over taking regular classes as a visiting student. The only certain effect of requiring an LL.M. degree is to increase cost. The cost of a degree program is generally significantly higher than the cost of taking credit hours. Indeed,

¹⁰ Proposed § 7.01(b), Board Petition, Exhibit A, p. 31.

¹¹ *Id.* at 32.

¹² Harvard LL.M. Degree Requirements (“All students must satisfactorily complete a minimum of 22 credit hours....”) <http://www.law.harvard.edu/academics/degrees/gradprogram/llm/ll.m.-degree-requirements.html>; U.C.L.A. LL.M. Degree Requirements (“Twenty-two (22) units of credit, over two semesters, are required to obtain the LL.M. degree.”) <https://law.ucla.edu/llm-sjd/llm-program/degree-requirements/>.

today, many have alleged that LL.M. programs are being widely and aggressively touted by ABA-approved law schools to foreign students as a supplemental source of funding.¹³

Accordingly, the proposed change from 24 credit hours to an LL.M. degree will not ensure better prepared foreign applicants. But it will ensure that the applicants are wealthier. It will exclude many capable but poor students and block from U.S. legal education those who most need it. In my experience assisting students from countries where religious minorities are persecuted, the wealthier students who have the easiest access to U.S. legal education are the least likely to be found among the oppressed minorities. Consequently, those who could most benefit from a U.S. legal education (since they are denied access to legal education in their home countries) will most likely be shut out.

Studying in the United States for one year is already beyond the financial means of almost all foreign students. By requiring an LL.M. degree and relocation to the U.S., the Board's proposed amendments will raise the financial costs of qualifying for the Tennessee bar beyond the means of all but the richest foreign applicants. Travel and living costs in the U.S. will be added on top of the current tuition requirements. Simply by increasing cost, the proposal will block talented foreign students of limited financial means who tend particularly to come from developing countries or countries with active religious or ethnic discrimination who most need access to U.S. legal education. These poorer students are often precisely the students most in need of legal education to work for the rule of law and human rights. It also will block students with local marital or familial commitments, who tend to be predominantly female students.

This might be justified if gaining an LL.M. degree with fewer required hours was connected with better qualifications than simply requiring 24 ABA credit hours. But it is arbitrary and unfair to require foreign students to travel to the United States to carry out studies that the Board and the ABA otherwise agree could be as well carried out via distance learning or through off-site in-person instruction, e.g. by having ABA faculty travel to a well-appointed facility abroad or having them manage a legal clinic or other experiential learning abroad. The Board's proposed rule change will ensure only that wealthier but not better foreign students qualify to take the Tennessee Bar Examination.

3) The On-Site and LL.M. Amendments Are Redundant Given the Other Provisions of § 7.01

¹³ For example, Prof. William Henderson notes that law schools are turning to LL.M. programs to deal with financial difficulties in his review of *The Lawyer Bubble: A Profession in Crisis*. See Henderson, Letting Go of Old Ideas, 112 Mich. Law Review 1111, 1112, fn 9 (2014): "Bryce Stucki, LLM: Lawyers Losing Money, Am. Prospect (May 8, 2013), <http://prospect.org/article/llm-lawyers-losing-money> (discussing the "unregulated wasteland" of LLM degrees, which are being used to prop up law school finances, in large measure because the ABA does not require any meaningful consumer information to help assess the value of LLM degrees (quoting Professor Caron) (internal quotation marks omitted))."

If there is really a concern that foreign-trained applicants are not receiving a legal education “substantially equivalent” to that at an ABA-approved institution, there is ready, tested mechanism already available to the Board to address that concern. Section 7.01 already requires the applicant to “satisfy the Board” that he has a legal education “substantially equivalent” to that received at an ABA-accredited law school. The Board rightly can use this provision to require applicants to provide sufficient documentary or testimonial evidence of “substantial equivalence.” HILS, for example, has welcomed expert inspections by ABA accreditors and provided voluminous documentary, expert, video and personal testimony about its equivalence on other occasions. If an applicant can assure the Board that he has received a three-year U.S. common-law education, equivalent to that at an ABA-approved school with 24 credit hours from an ABA-approved school, this must satisfy any concern about educational qualification.

The Board’s proposed change to § 7.01(a) would add another tool. The Board proposes to add the following sentence at the end of proposed § 7.01(a):

Applicants shall furnish such additional information as may be required by the Board to enable the Board to determine the applicant’s eligibility for such admission.¹⁴

The Board explains in its “Reason for Changes” that:

The additional sentence in § 7.01 allows the Board to require applicants to furnish educational equivalency computations from one of several nationally-recognized sources to ensure that educational equivalency requirements are being met.¹⁵

Although I cannot see why the current § 7.01 does not already authorize this, this provision should be adopted. HILS has dealt with several of these sources. World Education Services, wes.org, which is among the service used by the California bar to judge equivalence, is typical. They are experts in international education. They have the time and the expertise to judge equivalence. The cost of the analysis is entirely borne by the applicant so it doesn’t place any further burden on the Board. But the sufficiency of these independent accreditors again points out the redundancy of the limitations on distance learning and off-site education. Since the Board recognizes that there are reliable experts who can certify equivalence at the applicants’ cost, it would be unnecessary to make the other changes proposed by the Board.

Conclusion: Reject All Amendments to §7.01, Or At Least Remove the Most Damaging and Contradictory Proposed Amendment, Proposed §7.01(b)(iii)

For these three reasons, I would respectfully request that the proposed amendments to §7.01 be entirely rejected. In the alternative, the amendments should be modified with respect to the most

¹⁴ Proposed § 7.01(a), last sentence, Board Petition, Exhibit A, p. 31.

¹⁵ Id. at 32.

contradictory and problematic, §7.01(b)(iii), so as to strike all restrictions on the well-proven and ABA-approved distance or off-site educational methods, and thus to read:

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

I also would draw to attention to an inadvertent drafting error, which regardless of other considerations should be noted. In proposed §7.01(b)(i) in the last sentence, the phrase “The degree program certifies ... the foreign-educated lawyer received his or her legal educations from a law school” almost certainly was intended to read “legal education” since the plural suggests that the foreign education had to be ABA-approved as well, which is impossible.

Respectfully Submitted,



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Appendix 1: ABA Standards

Standard 303. CURRICULUM

(a) A law school shall offer a curriculum that requires each student to satisfactorily complete at least the following: (1) one course of at least two credit hours in professional responsibility that includes substantial instruction in the history, goals, structure, values, and responsibilities of the legal profession and its members; (2) one writing experience in the first year and at least one additional writing experience after the first year, both of which are faculty supervised; and (3) one or more experiential course(s) totaling at least six credit hours. An experiential course must be a simulation course, a law clinic, or a field placement. To satisfy this requirement, a course must be primarily experiential in nature and must: (i) integrate doctrine, theory, skills, and legal ethics, and engage students in performance of one or more of the professional skills identified in Standard 302; (ii) develop the concepts underlying the professional skills being taught; (iii) provide multiple opportunities for performance; and (iv) provide opportunities for self-evaluation.

(b) A law school shall provide substantial opportunities to students for: (1) law clinics or field placement(s); and (2) student participation in pro bono legal services, including law-related public service activities.

Standard 305. FIELD PLACEMENTS AND OTHER STUDY OUTSIDE THE CLASSROOM

(a) A law school may grant credit toward the J.D. degree for courses that involve student participation in studies or activities in a format that does not involve attendance at regularly scheduled class sessions, including courses approved as part of a field placement program, moot court, law review, and directed research.

(b) Credit granted for such a course shall be commensurate with the time and effort required and the anticipated quality of the educational experience of the student.

(c) Each student's educational achievement in such a course shall be evaluated by a faculty member. When appropriate a school may use faculty members from other law schools to supervise or assist in the supervision or review of a field placement program.

(d) The studies or activities shall be approved in advance and periodically reviewed following the school's established procedures for approval of the curriculum.

(e) A field placement program shall include: (1) a clear statement of its goals and methods, and a demonstrated relationship between those goals and methods and the program in operation; (2) adequate instructional resources, including faculty teaching in and supervising the program who devote the requisite time and attention to satisfy program goals and are sufficiently available to students; (3) a clearly articulated method of evaluating each student's academic performance

involving both a faculty member and the site supervisor; (4) a method for selecting, training, evaluating, and communicating with site supervisors; (5) for field placements that award three or more credit hours, regular contact between the faculty supervisor or law school administrator and the site supervisor to assure the quality of the student educational experience, including the appropriateness of the supervision and the student work; (6) a requirement that each student has successfully completed instruction equivalent to 28 credit hours toward the J.D. degree before participation in the field placement program; and (7) opportunities for student reflection on their field placement experience, through a seminar, regularly scheduled tutorials, or other means of guided reflection. Where a student may earn three or more credit hours in a field placement program, the opportunity for student reflection must be provided contemporaneously. (f) A law school that has a field placement program shall develop, publish, and communicate to students and site supervisors a statement that describes the educational objectives of the program.

Interpretation 305-1 Regular contact may be achieved through in-person visits or other methods of communication that will assure the quality of the student educational experience.

Interpretation 305-2 A law school may not grant credit to a student for participation in a field placement program for which the student receives compensation. This Interpretation does not preclude reimbursement of reasonable out-of-pocket expenses related to the field placement.

Standard 306. DISTANCE EDUCATION

(a) A distance education course is one in which students are separated from the faculty member or each other for more than one-third of the instruction and the instruction involves the use of technology to support regular and substantive interaction among students and between the students and the faculty member, either synchronously or asynchronously.

(b) Credit for a distance education course shall be awarded only if the academic content, the method of course delivery, and the method of evaluating student performance are approved as part of the school's regular curriculum approval process.

(c) A law school shall have the technological capacity, staff, information resources, and facilities necessary to assure the educational quality of distance education.

(d) A law school may award credit for distance education and may count that credit toward the 64 credit hours of regularly scheduled classroom sessions or direct faculty instruction required by Standard 310(b) if: (1) there is opportunity for regular and substantive interaction between faculty member and student and among students; (2) there is regular monitoring of student effort by the faculty member and opportunity for communication about that effort; and (3) the learning outcomes for the course are consistent with Standard 302.

(e) A law school shall not grant a student more than a total of 15 credit hours toward the J.D. degree for courses qualifying under this Standard.

(f) A law school shall not enroll a student in courses qualifying for credit under this Standard until that student has completed instruction equivalent to 28 credit hours toward the J.D. degree.

(g) A law school shall establish an effective process for verifying the identity of students taking distance education courses and that also protects student privacy. If any additional student charges are associated with verification of student identity, students must be notified at the time of registration or enrollment.

Standard 307. STUDIES, ACTIVITIES, AND FIELD PLACEMENTS OUTSIDE THE UNITED STATES

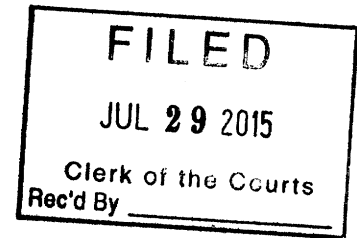
(a) A law school may grant credit for (1) studies or activities outside the United States that are approved in accordance with the Rules of Procedure and Criteria as adopted by the Council and (2) field placements outside the United States that meet the requirements of Standard 305 and are not held in conjunction with studies or activities that are approved in accordance with the Rules of Procedure and Criteria as adopted by the Council.

(b) The total credits for student participation in such studies or activities may not exceed one-third of the credits required for the J.D. degree.

From: "Johanna R. Thibault" <johanna.thibault@gmail.com>
To: <lisa.marsh@tncourts.gov>
Date: 7/29/2015 10:09 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, July 29, 2015 - 10:09am
Submitted by anonymous user: [69.166.180.160]
Submitted values are:

Your Name: Johanna R. Thibault
Your Address: 820 E. Accipiter Circle, Clarksville, TN 37043
Your email address: johanna.thibault@gmail.com
Your Position or Organization: Attorney, Petitioner
Rule Change: Supreme Court Rule 6, 7, and 8 (RPC 5.5)
Docket number: ADMIN2014-00443
Your public comments:
Dear Honorable Justices of the Tennessee Supreme Court:



I am Johanna Thibault, a lawyer that resides in Tennessee due to my husband's military orders. I write you today concerning the proposed rule pending before this court that would allow attorney spouses of servicemembers to practice while in Tennessee pursuant to orders.

My interest in this rule change is a personal one. I am an attorney and a military spouse, and I have experienced first hand the challenges and obstacles that are mentioned in the petition. Upon graduation from law school, I sat for and passed the Vermont Bar Exam and became a licensed attorney in the state of Vermont. We moved to the D.C. area where I initiated a judicial clerkship with a federal administrative agency, and my husband began his required training for the JAG Corps. Despite his efforts to obtain an assignment near D.C., my husband was assigned to Fort Lee, Virginia, where we proceeded to live apart for the second year of my clerkship.

As soon as he got assigned to Fort Lee, I applied for the Virginia bar exam. Our new residence was in Richmond, Virginia, and I had hoped to get employment there. I passed the exam and spent 17 months as a civilian attorney for the JAG Corps at Fort Lee before we moved overseas for my husband to fulfill his assignment in Germany. Our assignment at Fort Campbell is for less than two years, so upon returning the U.S. I made the difficult decision not to sit for another bar exam, and I instead focused on completing my LL.M.

My story is not a unique one among attorneys married to servicemembers. My husband and I have had five assignments in the last seven years, and we have had to live apart for one of those years so that I could continue working in my field. If Tennessee were to adopt this proposed rule, other military spouses that find themselves in similar circumstances would be able to work as an attorney and not add more time away from the legal profession in their resumes, as I have had to do.

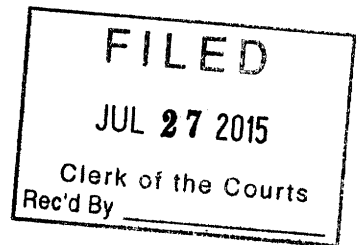
I would also like to address briefly the suggestion by other commenters that the rule be amended to include a supervision requirement. Among other ethical and financial reasons this requirement should not be included, a supervisory requirement would create an unmanageable hurdle for the military spouse. When we were assigned to Fort Campbell, I did not have any contacts or a network of attorneys here to call on to serve in the supervisory role. It would be

extremely difficult and certainly unlikely for me to be able to identify an attorney who is well-qualified to serve in the supervisory role. Therefore, a supervision requirement would effectively eviscerate the intent of the proposed rule: to provide reasonable accommodation for attorneys licensed in other states to practice in Tennessee on a temporary basis due to the military service of their spouse in Tennessee. This is evident in other states that have adopted a similar license for military spouses but have imposed a supervision requirement, particularly in Virginia, a state with a large contingent of military personnel, where attorney spouses have opted not to use the rule due to this hurdle.

Please consider adopting the proposed rule allowing military attorney spouses a temporary license to practice law while stationed in Tennessee. The military has a sizable presence in the state of Tennessee, and adopting this new rule would remove one of the many barriers military spouses already have on their legal careers.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/12405>

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

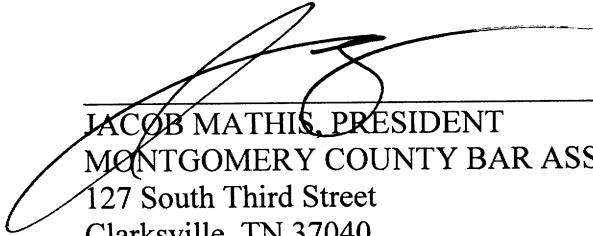


**IN RE: AMENDMENT OF RULES 6, 7, AND 8 (RPC 5.5),
RULES OF THE TENNESSEE SUPREME COURT**

No. ADMIN2015-00443

NOTICE OF FILING

Comes now the Montgomery County Bar Association and submits the attached Resolution in Opposition of Proposed Rule Change for Licensing of Military Spouse Attorneys as a written comment to the proposed Rule change.



JACOB MATHIS, PRESIDENT
MONTGOMERY COUNTY BAR ASSOCIATION
127 South Third Street
Clarksville, TN 37040
(931) 645-9900

FILED

JUL 27 2015

Clerk of the Courts

RESOLUTION IN OPPOSITION OF PROPOSED RULE CHANGE FOR

LICENSING OF MILITARY SPOUSE ATTORNEYS

BE IT RESOLVED that the Montgomery County Bar Association Board of Directors hereby adopts this Resolution in opposition of the proposed rule change for the temporary licensing of attorney spouses of military service members currently pending public comment to The Supreme Court of Tennessee. The proposed rule change would amend various provisions of Tennessee Supreme Court Rules 6, 7, and 8, and more specifically Rule 8, RPC 5.5, which govern admission and licensing of attorneys.

Due to our proximity to the U.S. Army Base at Ft. Campbell, Kentucky, and therefore, most likely affected by the proposed rule change, the Montgomery County Bar Association opposes the current proposed rule change for the TEMPORARY ADMISSION OF A MILITARY SPOUSE. The Montgomery County Bar Association recognizes the need to protect the citizens of the State of Tennessee and feels the current proposal lacks the oversight necessary to effectively supervise those that could use this rule to gain admission if the current proposal is granted.

While the Montgomery County Bar Association recognizes that military spouse attorneys face significant barriers to admission when their service member is assigned for duty in Tennessee and they are not licensed to practice in this state, this rule change would allow temporary admission with no oversight requirements from traditionally licensed attorneys which may detrimentally effect the high standards of the legal community within our state. The Montgomery County Bar Association urges the rejection of the proposed rule and/or suggests modifying the proposal to mirror the current similar proposal to amend the Rules of the Supreme Court of Kentucky (a copy of which is attached hereto), which requires any attorney temporarily

admitted to practice under this rule to work under the supervision and direction of local counsel. As with traditional Pro Hac Vice admissions, such a requirement would insure that clients have assistance from an attorney with a working knowledge of Tennessee state law.

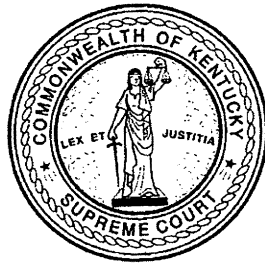
In rejecting the proposed rule changes the Supreme Court of Tennessee will prevent attorneys who are unfamiliar with and untrained regarding Tennessee state law from practicing in this State without property supervision and oversight, effectively protecting the citizens of the State of Tennessee.

ADOPTED: June 4, 2015.



JACOB MATHIS, PRESIDENT
MONTGOMERY COUNTY BAR ASSOCIATION

Supreme Court of Kentucky



PROPOSED AMENDMENTS TO THE RULES OF THE SUPREME COURT (SCR)

The following Proposed Rules Amendments will be considered in an open session beginning at 8:30 a.m. on Wednesday, June 17, 2015. The hearing will be conducted in the Bluegrass Ballroom at the Lexington Convention Center in Lexington.

These proposals have been submitted by practitioners for consideration by the Justices of the Supreme Court of Kentucky.

I. **SCR 2.018 Application [packets] Process**

The proposed amendments to the title of SCR 2.018:

II. **SCR 2.113 Military Spouse Provisional Admission.**

The proposed new rule SCR 2.113 would read:

1. Requirements. A person who meets all requirements of subparagraphs (a) through (m) of paragraph 2 of this Rule may, upon motion, be provisionally admitted to the practice of law in Kentucky.

2. Required Evidence. The applicant for provisional admission shall submit evidence satisfactory to the Kentucky Board of Bar Examiners that he or she:

(a) has been admitted by examination to practice law before the court of last resort of any state or territory of the United States or of the District of Columbia;

(b) holds a Juris Doctor degree from a law school accredited by the American Bar Association at the time of such applicant's graduation;

(c) has achieved a passing score on the Multistate Professional Responsibility Examination as it is established in Kentucky at the

time of application;

(d) is currently an active member in good standing in at least one state or territory of the United States, or the District of Columbia, where the applicant is admitted to the unrestricted practice of law, and is a member in good standing in all jurisdictions where the applicant has been admitted;

(e) is not currently subject to lawyer discipline or the subject of a pending disciplinary matter in any other jurisdiction;

(f) possesses the good character and fitness to practice law in Kentucky;

(g) is the dependent spouse of an active duty service member of the United States Uniformed Services as defined by the Department of Defense (or, for the Coast Guard when it is not operating as a service in the Navy, by the Department of Homeland Security) and that the service member is on military orders stationed in the Commonwealth of Kentucky;

(h) is physically residing in Kentucky;

(i) has submitted all requested character investigation information, in a manner and to the extent established by the Board of Bar Examiners, including all required supporting documents;

(j) has never failed the Kentucky Bar Examination;

(k) has completed twelve (12) hours of instruction approved by the Kentucky Continuing Legal Education Board on Kentucky substantive and/or procedural law, including four (4) hours of ethics, within the six-month period immediately preceding or following the filing of the applicant's application;

(l) certifies that he or she has read and is familiar with the Kentucky Rules of Professional Conduct; and

(m) has paid such fees as may be set by the Board of Bar Examiners to cover the costs of the character and fitness investigation and the processing of the application.

3. Issuance, Duration and Renewal.

(a) The Board of Bar Examiners having certified that all prerequisites have been complied with, the applicant for provisional admission shall, upon payment of applicable dues and completion of the other membership obligations, become an active member of the Kentucky Bar Association. An attorney provisionally admitted pursuant to this Rule shall be subject to the same membership obligations as other active members of the Kentucky Bar Association, and all legal services provided in Kentucky by a lawyer admitted pursuant to this Rule shall be deemed the practice of law and shall subject the attorney to all rules governing the practice of law in Kentucky, including the Kentucky Rules of Professional Conduct.

(b) A provisional admission may be renewed by July 31 of each year, upon filing with the Kentucky Bar Association (i) a written request for renewal, (ii) an affidavit by supervising Local Counsel, who certifies to the provisionally admitted attorney's continuing employment by or association with Local Counsel and to Local Counsel's adherence to the supervision requirements as provided under this Rule, and (iii) compliance with the membership obligations of the Rules of the Supreme Court of Kentucky applicable to active members of the Kentucky Bar Association.

(c) When the active duty service member is assigned to an unaccompanied or remote follow-on assignment and the attorney continues to physically reside in Kentucky, the provisional admission may be renewed until that unaccompanied or remote assignment ends, provided that the attorney complies with the other requirements for renewal.

4. Supervision of Local Counsel. A person provisionally admitted to practice under this Rule may engage in the practice of law in this jurisdiction only under the supervision and direction of Local Counsel.

(a) As used in this Rule, Local Counsel means an active member in good standing of the Kentucky Bar Association, whose office is in Kentucky.

(b) Local Counsel must provide to the Kentucky Bar Association his or her Kentucky Bar number, physical office address, mailing address, email address, telephone number, and written consent to serve as Local Counsel, on the form provided by the Board of Bar Examiners.

(c) Unless specifically excused from attendance by the trial judge, Local Counsel shall personally appear with the provisionally admitted attorney on all matters before the court.

(d) Local Counsel will be responsible to the courts, the Kentucky Bar Association, the Supreme Court of Kentucky, and the client for all

services provided by the provisionally admitted attorney pursuant to this Rule.

(e) Local Counsel is obligated to notify the Executive Director of the Kentucky Bar Association when the supervising relationship between the provisionally admitted attorney and Local Counsel is terminated.

5. Events of Termination. An attorney's provisional admission to practice law pursuant to this Rule shall immediately terminate and the attorney shall immediately cease all activities under this Rule upon the occurrence of any of the following:

(a) The spouse's discharge, separation or retirement from active duty in the United States Uniformed Services, or the spouse's no longer being on military orders stationed in the Commonwealth of Kentucky, except as provided in section 3(c) of this Rule.

(b) Failure to meet the annual licensing requirements of an active member of the Kentucky Bar Association;

(c) The absence of supervision by Local Counsel;

(d) The attorney no longer physically residing within the Commonwealth of Kentucky;

(e) The attorney ceasing to be a dependent as defined by the Department of Defense (or, for the Coast Guard when it is not operating as a service in the Navy, by the Department of Homeland Security) on the spouse's official military orders;

(f) The attorney being admitted to practice law in this Commonwealth under an admissions rule other than that of Provisional Admission;

(g) The attorney receiving a failing score on the Kentucky Bar Examination;

(h) The attorney being suspended from the practice of law in Kentucky; or

(i) Request by the attorney.

6. Notices Required.

(a) An attorney provisionally admitted under this Rule shall provide written notice to the Kentucky Bar Association of any Event of Termination within thirty (30) days of the occurrence thereof.

(b) Within thirty (30) days of the occurrence of any Event of Termination, the attorney shall:

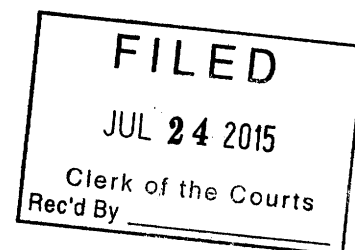
(i) provide written notice to all his or her clients that he or she can no longer represent such clients and furnish proof to the Executive Director of the Kentucky Bar Association within sixty (60) days of such notification; and

(ii) file in each matter pending before any court or tribunal in this Commonwealth a notice that the attorney will no longer be involved in the matter, which shall include the substitution of the Local Counsel, or such other attorney licensed to practice law in Kentucky selected by the client, as counsel in the place of the provisionally admitted attorney.

7. Benefits and Responsibilities. An attorney provisionally admitted under this Rule shall be entitled to the benefits and be subject to all responsibilities and obligations of active members of the Kentucky Bar Association, and shall be subject to the jurisdiction of the

From: "Rebekah Gleaves Sanderlin" <rebekah.sanderlin@gmail.com>
To: <lisa.marsh@tncourts.gov>
Date: 7/24/2015 12:51 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Friday, July 24, 2015 - 12:50pm
Submitted by anonymous user: [70.188.248.233]
Submitted values are:



Your Name: Rebekah Gleaves Sanderlin
Your Address: Niceville, FL
Your email address: rebekah.sanderlin@gmail.com
Your Position or Organization: Military Family Advocate
Rule Change: Supreme Court Rule 6, 7, and 8 (RPC 5.5)
Docket number: ADMIN201500443
Your public comments:
July 24, 2015
Tennessee Supreme Court
Re: Rule 7 section 5.03, No. ADMIN201500443
100 Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1407

Dear Esteemed Justices,

I am writing to you today in reference to the Supreme Court Order Soliciting Comments to Proposed Amendment of SCT Rule 7, Licensing of Military Spouse Attorneys — ADM2015-00443.

As a native (and future) Nashvillian and a national advocate for military families, I believe that this amendment will remove some of the unnecessary hurdles many military spouses who are attorneys currently face in Tennessee, while also honoring their service and sacrifices and allowing Tennesseans to benefit from the knowledge and experiences of these highly qualified attorneys.

I know firsthand how difficult it is to obtain the credentials necessary to practice law. Some of my most poignant memories are of watching my mother, Mary Frances Rudy — then a single mother of four and a former school teacher — and her study group spending their Saturdays working through Contracts and Torts when she was a student at the Nashville School of Law. She graduated at 40 years old, at the top of her class, and presently practices through both the Rudy Title & Escrow company and through Rudy, Wood, Winstead, Kolb & Turner. Several of my family members followed her into the practice of law in Nashville, including Frank Rudy, Ashley Rudy, William Moore and Carrie Gleaves. I also followed her example and attended the University of Memphis School of Law, but elected to return to my career in journalism instead. Further, dozens of my friends from high school (Hillsboro), college (Belmont) and law school (Memphis) currently practice in Nashville and around the state. I do not take lightly the rigor required for one to obtain a law degree, pass the bar exam and maintain a legal practice and, as a Tennessee property owner with many ties to the state, I have a vested interest in Tennessee carefully guarding the quality of attorneys practicing.

However, as an Army wife since 2003, I have struggled to maintain my career, despite the inherently portable nature of journalism. (Incidentally, my

career began at The Tennessean, and includes Nashville In Review, The Nashville Scene, The Memphis Flyer and Memphis Magazine.) My husband's years of war and deployments and our forced relocations have made it difficult for me to pursue my professional calling, and so I am very sympathetic to the struggles of my military spouse peers who are attorneys. With no state licensing requirements for journalists, I've been able to see and hear my words in The New York Times, The Washington Post, CNN, NPR, PBS, NBC Nightly News, MSNBC, and many other news outlets. Had I chosen the legal profession instead, state licensing requirements and the military lifestyle would have almost certainly prevented me from achieving equivalent success.

Presently I serve on the advisory boards of two national military family advocacy organizations —Blue Star Families and the Military Family Advisory Network. My work with these organizations has allowed me opportunities to be a featured speaker at events with the President and the First Lady, the U.S. Attorney General, the U.S. Secretary of Commerce, and the President's Domestic Policy Advisor, and I worked directly with the heads of every federal department when I advised the White House on the 2010 Presidential Directive on Military Families. In 2012 I was a top 5 finalist for the Army for the Military Spouse of the Year award. As an advocate who works on policy issues at the national level, I can assure you that finding ways for military spouses to pursue their chosen career fields is one of the most pressing concerns for military families nationwide. This is no less than a national security issue as we know that service members whose spouses are not able to work in their fields are choosing to depart military service altogether. America is losing some of our most highly trained troops — and the considerable investment our country has made in those individuals — simply because their spouses are not able to work where they are stationed.

Tennessee — my home state, a place my family has lived for at least nine generations and a state I plan to return to when my husband's military career ends — has the opportunity now to remedy this problem for a group of military spouses who have already made considerable sacrifices for our country. I hope the state I love will seize that opportunity.

Sincerely yours,
Rebekah Gleaves Sanderlin

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/12368>

From: "Alexis Conniff" <alexis.w.conniff@gmail.com>
To: <lisa.marsh@tncourts.gov>
Date: 7/22/2015 1:34 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, July 22, 2015 - 1:33pm
Submitted by anonymous user: [8.27.215.182]
Submitted values are:

Your Name: Alexis Conniff
Your Address: 524 Parkvue Village Way
Your email address: alexis.w.conniff@gmail.com
Your Position or Organization: Attorney
Rule Change: Supreme Court Rule 6, 7, and 8 (RPC 5.5)
Docket number: 2015443
Your public comments:
July 22, 2015

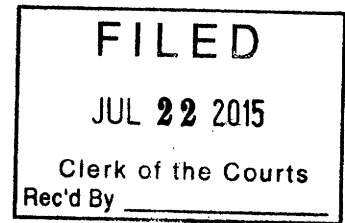
James Hivner, Clerk
Re: Rule 7 Section 5.03
100 Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1407

Re: PUBLIC COMMENTS ON AMENDMENT OF RULE 7, SECTION 5.03, No. ADMIN20150443

Dear Honorable Justices of the Tennessee Supreme Court,

I am writing in support of the petition to amend the Tennessee Supreme Court Rules 6, 7 and 8, to allow for the temporary admission of qualified attorney spouses of active duty servicemembers in the United States Uniformed Services. My interest in this rule change is a personal one: I am an attorney licensed to practice law in the states of Texas (2009) and Tennessee (2014), and the spouse of an active-duty soldier currently stationed at Fort Campbell, Kentucky. My family has sacrificed as a result of my husband's military career and will be asked to sacrifice again should my husband receive military orders elsewhere. The obstacles and experiences referenced to in the petition are part of my own story.

In the last seven years that I have known my husband, he has been assigned to three duty stations, and has been asked to move four times: Fort Hood, Texas; Fort Campbell, Kentucky; Fort Bragg, North Carolina, and back to Fort Campbell, Kentucky. I met him, Mike, while he was stationed in Texas and I was studying at the University of Texas School of Law. I realized he was the person with whom I wanted to spend the rest of my life. Although I assumed that maintaining a legal career while married to a servicemember would be difficult, I had no idea just how profoundly difficult it would actually be. I took the Texas bar exam immediately after graduation and was licensed to practice law in Texas on November 5th, 2009. I moved to Clarksville, Tennessee the following day, November 6th, after his assignment to Fort Campbell, Kentucky. For two years, I weighed the cost of attempting and taking another bar exam against the likelihood that he would be stationed elsewhere. As soon as I had begun working as an e-discovery attorney, a position that did not require a Tennessee license, he received orders to report to Fort Bragg, NC. Although I was still unlicensed in Tennessee, and my e-discovery work wasn't what I had envisioned doing with my law degree



when I went to law school, it was a legal position and I was glad to finally be working again. Together, we made the difficult decision that I would stay behind in Tennessee, maintain our household, care for our toddler son, continue working and establish a legal network and hope that when my husband's two-year training at Fort Bragg was over, he would be re-assigned to Fort Campbell. Those two years were extremely difficult for all of us- my son, my husband and me. I commuted from Clarksville to Nashville everyday, with almost no help in Clarksville. I did my level best in caring for our son, while also putting in a full workweek. Every six weeks, one of us- either my husband or I, would make the 10.5 hour drive between us to spend a precious 36 to 48 hours together. When my husband graduated from the Special Forces Qualification Course and officially received orders back to Fort Campbell, Kentucky, we were all incredibly relieved. Up to that point, in four years of marriage, my husband and I had lived together for less than one year.

My husband's assignment to Fort Campbell should last another several years, and with that knowledge, we felt 2014 was the right time for me to take the Tennessee bar exam. In July 2014, I took and passed the bar exam, five years after taking the Texas bar exam. Had there been a military spouse licensing accommodation rule in place in 2009, I could have begun using my talent, intelligence, and education five years sooner, not just for the betterment of my family but also for the clients I would have served in Tennessee. I am not the first military spouse to face the dilemma of staying behind or moving with his or her active-duty spouse, and I will not be the last.

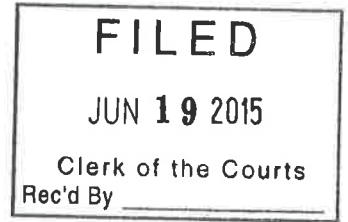
I, therefore, urge you to please consider adopting the proposed rule allowing military attorney spouses a temporary license to practice law while stationed in Tennessee. In recognition of the unique challenges facing military spouse attorneys, twelve states have already enacted a rule that allows the attorney spouses of servicemembers to practice while accompanying their spouse on orders. These rules have a broad range of support, including the Conference of Chief Justices, the American Bar Association, the U.S. Chamber of Commerce, the Military Officers Association of America, and the White House's Joining Forces initiative. The military has a sizable presence in the state of Tennessee, and adopting this new rule would remove one of the many barriers military spouses already have on their legal careers.

Sincerely,

Alexis W. Conniff (Military Spouse)
Bar No: 033679 (TN), 24070884 (TX)
524 Parkvue Village Way
Clarksville, TN 37043

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/12352>

IN THE SUPREME COURT OF TENNESSEE AT NASHVILLE



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

)
)
)

NO. ADMIN 201500443

NOTICE

Please accept for filing this Notice and attached Affidavit filed in support of the Petition to Amend Tennessee Supreme Court Rules 6, 7 & 8 and Amendment thereto.

Respectfully submitted,

Carol L. McCoy, BPR 002255
406 Metro Courthouse
Nashville, TN 37201

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the Notice and attached Affidavit has been served upon the individuals identified in Exhibit A attached hereto by regular U.S. Mail, postage prepaid, first class mail within seven (7) days of filing with the Court.

Carol L. McCoy

State of Tennessee)
County of Davidson)

AFFIDAVIT OF CAROL L. McCOY

I, Carol L. McCoy, being first duly sworn, submit this affidavit in support of the relief sought in the Petition to Amend Tennessee Supreme Court Rules 6, 7 & 8, No. ADMIN20150043, and the Amendment to that Petition, and state under oath as follows:

1. My father, Nelson McCoy, was a pilot in the United States Air Force for 26 years and retired in 1965 with the rank of Lt. Colonel. During their marriage and my father's military service, my parents had five children over 17 years. My father was not present for the birth of his first three children.
2. We moved almost every two years while I was growing up. When my mother was pregnant with me, my parents were returning from my father's post-war assignment in Austria. Upon his arrival in the United States, my father had no housing for us at his new assignment in Kearney, Nebraska. Consequently, he left my pregnant mother in Kingsport, Tennessee with his oldest sister in order to report on time for duty in Nebraska and to locate a place for us to live. I was born in Kingsport. After six weeks, my mother, my sister and I moved to Nebraska to join my father. We moved from Nebraska to Texas to Maine, all before I was six. At some point while I was young, we lived in Alabama while my father attended the war college. I attended the first half of the first grade in Louisiana and then we moved to Alaska. My elementary and middle school years involved four different schools and I attend three different high schools located in Wisconsin, Germany and Florida.
3. My mother worked before her marriage as a hospital lab technician and had a sound understanding of science and medicine. Nonetheless, she was never able to put her education and knowledge to use once she married my father. My mother did not work outside the home until I had graduated from high school and my father had retired. Upon his retirement, she became employed at the University of South Florida, assigned to debug computer coding for the university's fiscal office. My mother was very competent and bright, but the frequent changes in my father's assignments made it impossible for her to work outside the home. In addition to the frequent relocations which she generally had to navigate on her own, my mother was the only person to care for us while my father was on temporary duty leave. During one tour in Wisconsin, my father served an Inspector General, a position that necessitated that he travel to many Air Force bases across the United States. These and other assignments frequently caused him to be gone from home for days (and sometimes weeks) without us knowing how long he would be away. When we lived in Germany, my father would leave us for over a month at a time for temporary duty in Texas, for debriefing or for other official matters.
4. My father bought one house early in his marriage when he was stationed in Austin, Texas. We lived in Texas two years before he was reassigned to Bangor, Maine. He did not have time to help my mother sell the house, pack up the furniture and move with three children (all under

the age of 6) to join him in Maine. My father never purchased another home while he was serving in the military because he could not recover his investment due to the short time that he would be able to own the property.

5. When my father was transferred to Germany, he had to leave his wife and family in Wisconsin for eight (8) months because he had to wait for military housing for us. At that time, he had five children, ranging in ages from 18 years old to 18 months old. Mother was the parent who oversaw my oldest sister's graduation from high school and enrollment in college at the University of Kentucky. We then left for New Jersey to catch the flight required by our travel orders, leaving my sister in the United States while we moved overseas. We did not see my sister throughout her entire first year of college.
6. I greatly admire both my parents. I now recognize the enormous demands that my father's service placed upon them. My mother never complained despite the hardships caused by father's service; my parents had a strong marriage and were committed to each other and to us, their children. As an elected public official in Nashville, Tennessee, I also recognize the importance of strong bonds to one's community. As a lawyer and Chancellor, I understand the difficulty in trying to transfer one's professional practice to a different community, let alone move one's practice to another State.
7. I submit this abbreviated history of my life as the child of a military officer (a) to personalize the stressful demands made upon military family members and (b) in support of the Petition to allow qualified licensed attorneys who are spouses of active military officers and servicemen to temporarily practice law while their spouses serve in Tennessee or at Fort Campbell, Kentucky.

I, Carol L. McCoy, swear under penalty of perjury that the facts set out above are true.



Carol L. McCoy
Chancellor, Chancery Court for Davidson County, Part II

Sworn to and subscribed before me this ___ day of June, 2015.



Notary Public (Signature)



Name of Notary Public (printed)

State of Tennessee

My commission expires: 7/2/18



SEAL

Exhibit A

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

Exhibit A

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

Exhibit A

Name	Firm	Address One	Address Two	City	State	Zip
Josie E. Beets		1325 Chinook Circle		Clarksville	TN	37042
Martha L. Boyd	Baker Donelson Bearman Caldwell & Berkowitz PC	211 Commerce Street	Suite 800	Nashville	TN	37201
Robert Echols	Bass Berry & Sims	150 Third Avenue South	Suite 2800	Nashville	TN	37201
Charles K. Grant	Baker Donelson Bearman Caldwell & Berkowitz PC	211 Commerce Street	Suite 800	Nashville	TN	37201
James E. Mackler	Bone McAllester Norton PLLC	511 Union Street	Suite 1600	Nashville	TN	37219
George C. Paine II		3702 Whitland Avenue		Nashville	TN	37205
Kathleen Pohlid	Pohlid, PLLC	205 Powell Place	Suite 357	Brentwood	TN	37207
Johanna R. Thibault		820 E. Accipiter Circle		Clarksville	TN	37043
Robert D. Tuke	Trauger & Tuke	222 Fourth Avenue North		Nashville	TN	37219

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

FILED

JUN 18 2015

Clerk of the Courts
Rec'd By _____

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

No. ADMIN 2015-00443

**COMMENT OF THE BOARD OF PROFESSIONAL RESPONSIBILITY
TO PETITION TO AMEND TENN. SUP. CT. RULES 6, 7 AND 8
(RPC 5.5) GOVERNING ADMISSION AND
LICENSING OF ATTORNEYS**

Comes now the Board of Professional Responsibility (the Board), pursuant to Order filed March 25, 2015, and submits the following Comment to Petition to Amend Tenn. Sup. Ct. Rules 6, 7, and 8.

A. Tenn. Sup. Ct. R. 7 – Licensing of Attorneys

1. Proposed Tenn. Sup. Ct. R. 7, Article I, Sections 1.01 and 5.01(c) reference the “practice of law” as defined in T.C.A. § 23-3-101. Tenn. Sup. Ct. R. 9, Sec. 10.3(e) also defines the “practice of law.” The Board respectfully suggests Rule 7 include both the T.C.A. and Rule 9 definitions of the “practice of law.”

2. Proposed Tenn. Sup. Ct. R. 7, Article 1, 7, Sec. 1.01(b) regarding special or limited practice should encompass 5.5(d)(1) and 5.5(d)(2), and should be revised to reference to Tenn. Sup. Ct. R. 8, 5.5(d) and not just 5.5 (d)(2).

3. The Board supports the proposed clarifying language and notice requirements for in-house counsel as outlined in Tenn. Sup. Ct. R. 7, Article X, Sec. 10.01(e) and (f).

4. For clarity, the Board respectfully suggests deleting “for two (2) exam cycles” in Tenn. Sup. Ct. R. 7, Article X, Sec. 10.04(a)(v), since “exam cycle” is not defined, leaving the privilege to engage in supervised practice for no longer than eighteen (18) months after the first Application to the Bar of Tennessee.

5. The Board supports the proposed changes to the conditional admission rule in Tenn. Sup. Ct. R. 7, Article X, Section 10.05(f) and (g).

6. Proposed Tenn. Sup. Ct. R. 7, Article XVI, Reinstatement of Law License, should be revised to reference amended Tenn. Sup. Ct. R. 9, Sections 10 and 30, instead of Sections 19 and 20. Additionally, the Board respectfully asserts the proposed exception allowing attorneys with an "Order from the Supreme Court" to take the bar exam in advance of a determination of their petition is ambiguous since it is unclear whether this provision permits an applicant to apply for and be granted an Order allowing the petitioner to take the bar exam prior to the resolution of a petition for reinstatement.

B. Tenn. Sup. Ct. R. 8, Rules of Professional Conduct

7. The Board has no objection to proposed Tenn. Sup. Ct. R. 8, RPC 5.5 adding subsection (3) to RPC 5.5(d).

RESPECTFULLY SUBMITTED,

Michael King By JB w/ permission

MICHAEL U. KING (#020830)

Chairman, Board of Professional Responsibility
of the Supreme Court of Tennessee

King and Thompson, Attorneys at Law
12880 Paris Street
P.O. Box 667
Huntingdon, TN 38344-0667

Sandy Garrett

SANDY GARRETT (#013863)

Chief Disciplinary Counsel, Board of Professional
Responsibility of the Supreme Court of Tennessee

10 Cadillac Drive, Suite 220
Brentwood, TN 37027

Certificate of Service

I certify that the foregoing has been mailed to Allan F. Ramsaur, Esq., Executive Director, Tennessee Bar Association, 221 4th Avenue North, Suite 400, Nashville, Tennessee by U.S. mail, on this the 17 day of June, 2015.

By: Michael King By SG w/ permission
MICHAEL U. KING (#020830)
Chairman of the Board

By: Sandy Garrett
SANDY L. GARRETT (#013863)
Chief Disciplinary Counsel



BOARD OF PROFESSIONAL RESPONSIBILITY
of the
SUPREME COURT OF TENNESSEE

SANDY L. GARRETT
CHIEF DISCIPLINARY COUNSEL
KRISANN HODGES
DEPUTY CHIEF DISCIPLINARY COUNSEL
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DIRECTOR OF CONSUMER ASSISTANCE
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ALAN D. JOHNSON
WILLIAM C. MOODY
PRESTON SHIPP
EILEEN BURKHALTER SMITH
A. RUSSELL WILLIS
DISCIPLINARY COUNSEL

June 17, 2015

Honorable James M. Hivner
Chief Clerk, Supreme Court of Tennessee
401 Seventh Avenue North, Suite 100
Nashville, TN 37219-1407

Dear Mr. Hivner:

Enclosed please find the original and one copy of the Comment of the Board of Professional Responsibility to Petition to Amend Tenn. Sup. Ct. Rules 6, 7 and 8 (RPC 5.5), No. ADM 2015-00443.

Respectfully,

A handwritten signature in cursive script that reads "Sandy Garrett".

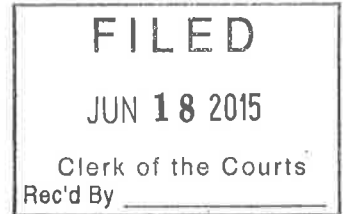
Sandy L. Garrett, Esq.
Chief Disciplinary Counsel

SG:jt

Enclosures

cc w/encl: Honorable Jeffrey S. Bivins, Justice, Supreme Court of Tennessee
Michael U. King, Chair, Board of Professional Responsibility
Allan Ramsaur, TBA Executive Director

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE



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

No. ADMIN 2015-00443

**COMMENT OF THE BOARD OF PROFESSIONAL RESPONSIBILITY
TO PETITION TO AMEND TENN. SUP. CT. RULES 6, 7 AND 8
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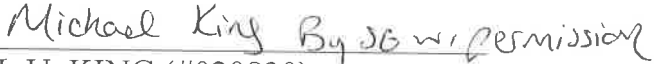
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RESPECTFULLY SUBMITTED,


MICHAEL U. KING (#020830)
Chairman, Board of Professional Responsibility
of the Supreme Court of Tennessee

King and Thompson, Attorneys at Law
12880 Paris Street
P.O. Box 667
Huntingdon, TN 38344-0667


SANDY GARRETT (#013863)
Chief Disciplinary Counsel, Board of Professional
Responsibility of the Supreme Court of Tennessee

10 Cadillac Drive, Suite 220
Brentwood, TN 37027

Certificate of Service

I certify that the foregoing has been mailed to Allan F. Ramsaur, Esq., Executive Director, Tennessee Bar Association, 221 4th Avenue North, Suite 400, Nashville, Tennessee by U.S. mail, on this the 17 day of June, 2015.

By: Michael King By SG w/ permission
MICHAEL U. KING (#020830)
Chairman of the Board

By: Sandy Garrett
SANDY L. GARRETT (#013863)
Chief Disciplinary Counsel



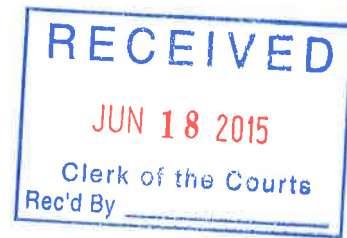
BOARD OF PROFESSIONAL RESPONSIBILITY
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SUPREME COURT OF TENNESSEE

SANDY L. GARRETT
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EILEEN BURKHALTER SMITH
A. RUSSELL WILLIS
DISCIPLINARY COUNSEL

June 17, 2015



Honorable James M. Hivner
Chief Clerk, Supreme Court of Tennessee
401 Seventh Avenue North, Suite 100
Nashville, TN 37219-1407

Dear Mr. Hivner:

Enclosed please find the original and one copy of the Comment of the Board of Professional Responsibility to Petition to Amend Tenn. Sup. Ct. Rules 6, 7 and 8 (RPC 5.5), No. ADM 2015-00443.

Respectfully,

A handwritten signature in cursive that reads "Sandy Garrett".

Sandy L. Garrett, Esq.
Chief Disciplinary Counsel

SG:jt

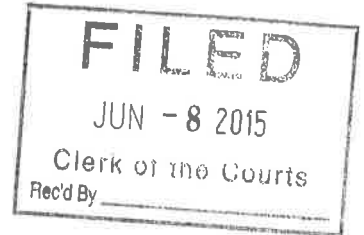
Enclosures

cc w/encl: Honorable Jeffrey S. Bivins, Justice, Supreme Court of Tennessee
Michael U. King, Chair, Board of Professional Responsibility
Allan Ramsaur, TBA Executive Director

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

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

No. ADMIN2015-00443



JOINT COMMENT OF THE SIX TENNESSEE
LAW SCHOOLS

The six law schools located in Tennessee – Belmont University College of Law, Lincoln Memorial University Duncan School of Law, Nashville School of Law, University of Memphis Cecil C. Humphries School of Law, University of Tennessee College of Law, and Vanderbilt University School of Law - respectfully submit the following comment in support of the Tennessee Board of Law Examiners (“TBLE”) petition to amend Tennessee Supreme Court Rule 7, § 2.01. The proposed amendment would require applicants for admission to the Bar of Tennessee to obtain a Bachelor’s Degree prior to sitting for the Bar Examination, rather than prior to beginning the study of law. The pertinent portion of the TBLE petition pertaining to Rule 7, § 2.01 resulted from discussions between TBLE and the deans of the Tennessee law schools. The law schools appreciate the interest, support, and leadership of TBLE on this issue.¹

Background

The high cost of education remains a significant problem in the State of Tennessee and throughout the country. The increasing cost of higher education saddles some students with

¹ The comment is limited to the portion of the TBLE petition dealing with Rule 7, Section 2.01.

student loan debt to the point that it limits their future opportunities. For others, the costs of higher education amount to a significant obstacle to enrollment.

One way law schools throughout the country have addressed the rising costs of tuition is through the creation of 3+3 programs. Typically, these are highly-structured programs in which a student who has completed three years of undergraduate study may enroll in law school and apply the credits earned in the first year of law school toward the student's undergraduate degree. Thus, students are able to receive their Bachelor's Degree and Juris Doctorate in a total of six years instead of the usual seven. In the process, they save a year's tuition.

The American Bar Association (ABA) recently amended its Standards for the Approval of Law Schools to recognize and sanction the establishment of 3+3 programs. ABA Standards for Approval of Law Schools 2014-15, Standard 502(b)(1). ABA Standard 502(a) requires that a law school establish as a standard for admission to its J.D. program a requirement that a student must have received a Bachelor's Degree that has been awarded by an accredited institution. However, new Standard 502(b)(1) clarifies that a law school may also admit "an applicant who has completed three-fourths of the credits leading to a bachelor's degree as part of a bachelor's degree/J.D. degree program" Thus, the ABA has approved the establishment of 3+3 programs for use by ABA-accredited law schools.

These programs are becoming increasingly common in legal education. They are in place in law schools across the country and at some of the most highly-ranked law schools. These 3+3 programs are still subject to ABA and state accreditation standards. Typically, admission to

these programs is limited to students with outstanding credentials.² The University of Tennessee College of Law has proposed a 3+3 program, and other law schools are exploring the concept.

The Problem

In its present form, Tennessee Supreme Court Rule 7, § 2.01 renders a student who has completed a 3+3 program ineligible to sit for the Tennessee Bar Examination. Section 2.01(a) currently provides that an applicant must file as part of an application

[e]vidence satisfactory to the Board that *prior to beginning the study of law*, the applicant had received a Bachelor's Degree from a college on the approved list of the Southern Association of Colleges and Secondary Schools, or the equivalent regional accrediting association, or any accreditation agency imposing at least substantially equivalent standards. (emphasis added)

Because an applicant who has completed a 3+3 program, by definition, has not received a Bachelor's Degree *prior to beginning the study of law*, the applicant is ineligible to sit for the Tennessee Bar Exam. An applicant may seek a waiver of this rule from the Board of Law Examiners. *Id.* § 2.01(c). However, as the rule currently exists, an applicant who has completed a 3+3 program would be *prima facie* ineligible to be admitted to the Tennessee Bar and, given the uncertainties associated with a waiver, may be dissuaded from entering such a program or applying for admission to the Bar.

Rule 7, § 2.01 was adopted prior to the creation of 3+3 programs and prior to the ABA's adoption of its new standard regarding 3+3 programs. Therefore, the rule was almost certainly not designed with 3+3 programs in mind. Tennessee is, in fact, the only state in the country with such a rule in place. See Exhibit 1 (attached). Most states simply require that a student receive a

²For example, under the plan being considered at the University of Tennessee, students seeking admission to the College of Law would ordinarily be required to have earned a 3.5 undergraduate GPA and a score of 160 on the LSAT. Therefore, the students who enroll in 3+3 programs are usually highly motivated and highly qualified students.

Bachelor's Degree prior to applying for admission to the bar. See, e.g., Ga. R. Gov'g Admis. Prac. Law § 4.

The Solution

The amendment to Rule 7, § 2.01 proposed by the TBLE solves the problem and will permit future lawyers to take advantage of the significant benefits associated with 3+3 programs and so that the Tennessee Bar may benefit from the inclusion of these individuals.³

This proposed amendment furthers the State of Tennessee's compelling interests in protecting the public and ensuring the competence of lawyers practicing in the state while enabling aspiring lawyers to take advantage of the significant benefits afforded by 3+3 programs.

All of the law schools in Tennessee support the petition of the TBLE.

Respectfully submitted,


/s/ by permission
Alberto R. Gonzalez, Dean
Belmont University College of Law

/s/ by permission
Matthew R. Lyon, Acting Dean
Lincoln Memorial University – Duncan School of
Law

³ Rule 7, § 2.03(g)(2)(A), which applies exclusively to the Nashville School of Law, contains a cross-reference to section 2.01. Section 2.03(g)(2)(A) states that an applicant to NSL "must have . . . [r]eceived a bachelor's degree as provided in Rule 7, § 2.01." The law schools interpret the TBLE petition as having the effect of amending section 2.03 as well to maintain consistency.

/s/ by permission
William C. Koch, Jr., Dean
Nashville School of Law

/s/ by permission
Peter V. Letsou, Dean
University of Memphis Cecil C. Humphries School
of Law



Douglas A. Blaze, Dean
University of Tennessee College of Law

/s/ by permission
Chris Guthrie, Dean
Vanderbilt University School of Law

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing has been served upon the following individuals by regular U.S. mail, postage prepaid within 7 days of filing with the Court:

Lisa Perlen
Executive Director
Tennessee Board of Law Examiners
401 Church Street, Suite 2200
Nashville, TN 37219

Julian Bibb
Executive Director
Tennessee Board of Law Examiners
401 Church Street, Suite 2200
Nashville, TN 37219



Douglas A. Blaze

EXHIBIT 1

Majority view: States that would permit a student to undertake legal studies after successfully completing three years of undergraduate studies:

Alaska, Arizona, Arkansas, California,* Colorado, Connecticut, District of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois,** Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan,* Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Texas, Utah, Vermont,** Virginia, Washington, West Virginia, Wisconsin, Wyoming

* requiring at least 60 “semester hours” or 90 “quarter hours” of study in courses for which credit towards a collegiate degree is given

** requiring at least 90 completed credit hours or three-quarters of a bachelor’s degree at an approved college before starting a legal education

Minority view: States that would not permit a student to undertake legal studies during their fourth and final year of undergraduate studies:

Tennessee

Other:

- **Alabama** (requiring a bachelor’s degree prior to starting law school if the applicant did not graduate from a law school accredited by the American Bar Association or the Association of American Law Schools). Ala. R. Gov’g Admis. Bar Rule IV.
- **Delaware** (requiring applicants who attended law school prior to attaining a baccalaureate or equivalent degree to supply a copy of the “law school’s statement of considerations...setting forth the basis for the law school’s decision to admit” the candidate before the candidate received a degree.) Del. Sup. Ct. R. 52.
- **North Carolina** (requiring applicants to have satisfactorily completed the academic work required for admission to a law school approved by the Council of the North Carolina State Bar). N.C. R. Gov’g Admis. to Practice Law Rule .0701.

WALDO E. RASSAS
1910-2001

MARK A. RASSAS
Certified as a Specialist in Civil Trial Advocacy
by the National Board of Trial Advocacy
Rule 31 Listed Mediator

JULIA P. NORTH
Admitted in Tennessee and Michigan

BLAISE E. FERRARACCIO, J.D., M.D.
Of Counsel

Rassas, North & Associates

ATTORNEYS AT LAW

120 SOUTH SECOND ST., GLENN BUILDING, SUITE 101
P.O. BOX 361
CLARKSVILLE, TENNESSEE 37041-0361

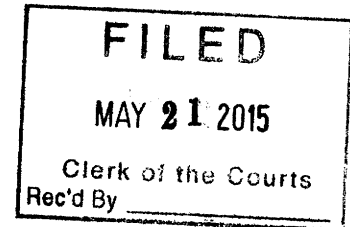
(931) 645-4044

FAX (931) 648-4525

EMAIL: Rassaslaw@aol.com

May 18, 2015

Tennessee Supreme Court
Public Comment
James Hivner, Clerk
100 Supreme Court Building
401 Seventh Avenue North
Nashville, TN 37219-1407



ADM2015-00443

**Re: *Amendment of Rules 6, 7, and 8 (RPC 5.5)
Rules of the Tennessee Supreme Court
and
Practice by Military Spouses***

Dear Honorable Members of the Tennessee Supreme Court:

I have recently been contacted by a military spouse, who is also an attorney, but not licensed to practice in the State of Tennessee. She is seeking my support for a change to the Rules of the Tennessee Supreme Court, which would allow for her temporary admission to the Tennessee Bar, waiving the requirement of successful completion of the Bar examination, or the requirement for five years of experience.

I served for 30 years as a military attorney, both on active duty and in the reserve, retiring at the rank of Colonel. Over the course of my service, I spent 18 years working in the Office of the Judge Advocate General (JAG) at Fort Campbell, serving as Chief of the legal division during the first Gulf War. Over the years, I have found JAG attorneys to be some of the most conscientious, dedicated and qualified attorneys with whom I have ever known. I have also found that JAG attorneys who were not admitted to the Tennessee Bar, and only in this area for three to four years on military duty, made obvious mistakes in advising clients on local and state practice. For example, one of the highest ranking attorneys in the JAG Corps attempted to draft a pro se divorce complaint, merely by review of the statute, which simply did not work and resulted in a very frustrated client.

As a practicing attorney in Tennessee for almost 40 years, and a longstanding District Investigating Committee member for the Tennessee Bar Examiners, I have significant concerns about the waiver provision sought. I believe that the Rule change as proposed is overly broad and does not provide enough protection for either the attorney, or the public. In addition, this proposal may open the door to other non Tennessee attorneys who seek to practice in Tennessee under different, but "special" circumstances.

As an alternative, I suggest a streamlined pro hoc vice procedure for military spouses, under the supervision of a licensed Tennessee attorney, which would enable them to practice in Tennessee with reasonable safeguards. From my review, it appears that half of the states with spouse practice rules impose either supervision or a years of practice requirement (Idaho, Arizona, Virginia, Massachusetts, New York, North Carolina).

It is certainly a waste of talent and resources for a licensed attorney to move to Tennessee with their military spouse and not be allowed to practice without taking the Tennessee Bar exam, when they may relocate within a relatively short period of time. I applaud the proponents of a Rule change, but believe that some form of supervision or mentorship by a licensed Tennessee attorney is a reasonable safeguard.

Montgomery County is the home of Fort Campbell and would be most impacted by any rule change. Involvement by regularly licensed Tennessee attorneys should not be seen as a barrier to Bar admission, but rather a safeguard for the public and a resource to the military spouse.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Mark A. Rassas', with a large, sweeping flourish extending to the right.

Mark A. Rassas
Colonel (RET, USA)

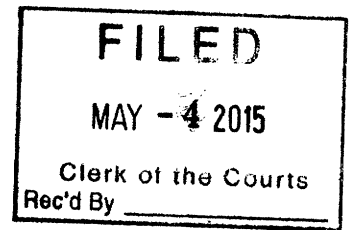
MAR/mlc

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Michael J. Thompson Law

ATTORNEY AT LAW
Licensed in Kentucky & Tennessee



ADM 2015-00443

P: (270)-439-1175 F: (270)-439-1177 | 244 Thompsonville Lane, Oak Grove, KY 42262

April 29, 2015

To whom it may concern:

My name is Megan DeZotell Sarrail and I am writing this letter in support of the amendment to the Tennessee Supreme Court Rules 6, 7, and 8 (RPC 5.5). I am currently a California licensed attorney and my husband is stationed at Fort Campbell. Since my move to Tennessee, I have been working as a paralegal in Oak Grove, Kentucky at the Thompson Law Office. Because of the length of time it takes to take the bar exam, receive the results, and get sworn in and because of the possibility that my husband may only be stationed at Fort Campbell for a short period of time, I have chosen not to take the bar exam in Tennessee or Kentucky at this time.

It is unfortunate that military spouses licensed in other jurisdictions have to face the dilemma of choosing to spend the time and money to take another bar exam when there is a possibility that their spouse may be stationed elsewhere within the time it takes to receive bar results.

The new amendment would help military spouses, such as myself, be able to temporarily practice in the jurisdiction so that we do not have to compromise our hard-earned professions while living a mobile military lifestyle. The new amendment also allows attorneys, like myself, to continue to practice while waiting for bar results if our spouses choose to retire and we remain in the jurisdiction. This gives great flexibility to military spouses who want to maintain the integrity of their legal careers while making the decision to remain in the jurisdiction after their spouse's retirement.

This amendment is a great proposal that supports the careers of military spouses who have made the difficult decision to place their spouses and their spouse's military career before their own. This amendment allows us not to compromise and gives us the ability to support our spouses while earning the living that we originally intended when becoming licensed to practice law in our home jurisdiction.

For any additional information or questions, I can be contacted by email at megan.dezotell@gmail.com, by phone at (805) 279-9235, and by mail at 636 Fox Hound Drive, Clarksville, TN 37040.

Sincerely,

Megan DeZotell Sarrail, CA Bar #278458

ORIGINAL

FILED

IN THE SUPREME COURT OF TENNESSEE AT NASHVILLE

2015 APR -6 PM 1:42

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

No.: ADMIN2015443
SUPREME COURT CLERK
NASHVILLE

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

The undersigned attorneys hereby respectfully petition this Honorable Court to amend Tennessee Supreme Court Rule 7 ("Rule 7") to allow for the temporary admission of qualified attorney spouses of active duty servicemembers in the United States Uniformed Services ("servicemember(s)") while in Tennessee or at Fort Campbell, Kentucky, due to military orders of the servicemember spouse. The rule proposed by this petition ("This Petition") is set forth in Exhibit A hereto and is proposed to be inserted in Rule 7, under Article V. Persons Admitted in Other Jurisdictions Seeking Waiver of Examination, as "Section 5.03. Temporary Admission for Attorney Spouses of Servicemembers." Further, the undersigned attorneys ask that This Petition and proposed rule be an amendment to the above captioned petition submitted by the Tennessee Board of Law Examiners ("TBLE") on March 12, 2015, currently pending comment and consideration by this Honorable Court.

In support of This Petition, the undersigned attorneys would respectfully show as follows:

1. Procedure.

At this time, this Honorable Court has pending before it a petition, submitted by the TBLE on March 12, 2015, to amend Tennessee Supreme Court Rules 6, 7 and 8 governing admission and licensing of attorneys. Since the proposal in This Petition addresses the temporary admission of attorneys with spouses in the United States Uniformed Services via an amendment to Rule 7, it is appropriate to consider it along with the other proposed amendments to Rule 7 presented in the TBLE's pending petition. The TBLE received a request in August 2014 to consider this issue, has been provided with a copy of the proposed rule, and has had adequate notice of it. This Petition is timely submitted and sufficient time remains to allow for public comment on it prior to July 31, 2015, the deadline for public comment on TBLE's pending petition. Therefore, This Petition should be considered with the petition currently pending before the Court.

2. Background.

Attorney spouses of active duty servicemembers ("attorney spouse(s)") face significant barriers in their ability to practice in the legal profession as a consequence of the frequent changes in military duty assignments of their servicemember spouses. The proposed rule seeks to address those barriers and

serves the important public policy interest in supporting military servicemembers and their families through a common sense licensing accommodation that provides a temporary license to practice law while the attorney spouse is in Tennessee due to military orders of his or her servicemember spouse.

This is an extraordinary time in our country. We are engaged in an enduring war in the Middle East and Southwest Asia requiring repeated extended deployments for our servicemembers each year. With reduced funding of the military, their ranks are reduced and they have more frequent deployments. Recruitment and retention challenges, inherent in an all-volunteer force, pose an additional impact upon servicemembers often necessitating frequent changes in duty stations across and outside the country. These factors impose incredible pressure on servicemember families and are magnified by frequent and lengthy familial separations for combat deployments.

In addition to the pressures that servicemember families face, attorney spouses also bear a unique burden that limits their ability to practice their profession: the requirement that they must be authorized to practice law in the jurisdiction where they are practicing. When servicemember spouses receive orders for a change in duty assignment, attorney spouses are faced with the untenable choice of remaining in the previous jurisdiction without their servicemember spouse in order to maintain their practice, or relocating with their servicemember spouse to

a jurisdiction where they are not authorized to practice law. This Petition and the proposed rule remove this obstacle and provide a reasonable accommodation through a temporary law license.

An attorney spouse's ability to maintain a career can be a critical factor in a servicemember's determination as to whether to continue service in the military. This provides an additional compelling public policy justification for the reasonable accommodation provided by the proposed rule.

Military families can expect to move every two to three years; in fact, 79 percent of military families have moved across state lines in the past five years.¹ Moves are based on the needs of the military service without regard for bar exam deadlines or licensing restrictions. Frequent moves make it nearly impossible for an attorney spouse to fulfill experience requirements for reciprocity or comity admission. For attorney spouses, this means that while 80 percent maintain an active law license, only 34 percent work full time in a job requiring a license.² Four out of five attorney spouses report that their servicemember spouse's military service has negatively impacted their legal career. Half of attorney spouses have lived apart from their servicemember spouse (excluding deployments) in order to

¹ Military Officers Association of America & Institute for Veterans and Military Families at Syracuse University, *Military Spouse Employment Report* (February 2014), available at <http://vets.syr.edu/research/research-highlights/milspouse-survey/>.

² Military Spouse JD Network, *2013 Member Survey Report of Findings* (January 2014), available at <http://www.msjudn.org/wp-content/uploads/2014/02/MSJDN-Survey-Report.pdf>.

maintain their legal career.

Since 2011, the Military Spouse JD Network has been working with state bar licensing authorities to enact common sense licensing accommodations to ease the burdens attorney spouses face when maintaining their legal career. Most state law licensing bodies already have a provision for admission without examination for in-house counsel, law professors, or pro bono attorneys. These provisions represent good public policy decisions made by states to provide an exception to the normal route to licensure. To date, twelve states have enacted rules or policies aimed at enabling attorney spouses to continue their legal practice when their servicemember spouse has been assigned for duty within their state without the need for bar examination, avoiding further separation and stress upon the military family.³ These states recognize the importance of reducing licensing barriers for military spouses, representing another good policy decision. This Petition is further supported by public policies in federal law recognizing the important justification for reasonable accommodation for servicemembers and their service to our nation.⁴

The licensing accommodations provided in those states for attorney spouses typically require applicants to have been admitted to the practice of law in another

³ See Exhibit B: Military Spouse Rule Changes & Policies and Their Impact on the Bar.

⁴ See, e.g., Family and Medical Leave Act of 1993, 29 U.S.C. § 2601, as amended by Section 565 of the National Defense Authorization Act for Fiscal Year 2010, Pub.L. 111-84, to provide for exigency and military caregiver leave for employees of servicemembers; and the Uniformed Services Employment and Reemployment Rights Act of 1994, Pub.L. 103-353, 28 U.S.C. §§ 4301-4335.

state, to be in good standing with no disciplinary actions in all jurisdictions admitted, to possess the moral character and fitness required for admission, and to comply with continuing legal education and license maintenance requirements of the accommodating state. The rule proposed in This Petition strikes a careful balance, providing a temporary admission procedure to enable attorney spouses to continue their careers with minimal disruption to their families while maintaining the high standards of the legal community within Tennessee. The number of attorney spouses availing themselves of similar rules has been small; thus, this proposed rule will not be administratively burdensome for Tennessee.⁵

A report and proposal was originally sent to the TBLE in August of 2014 (Exhibit C). Since that time, and in collaboration with the legal community of Tennessee, the rule proposed by This Petition was developed. The proposed rule has achieved increasing support of legal communities across Tennessee. The Boards of the Lawyers' Association for Women Marion Griffin Chapter, Memphis Bar Association, Nashville Bar Association, and Knoxville Bar Associations have all endorsed resolutions of support for temporary military spouse attorney licensure (Exhibit D). Additionally, over 100 military veteran attorneys from Nashville and Knoxville have individually voiced their support for the rule. The list includes 13 active and retired state and federal judges (Exhibit E).

⁵ *Id.*

The American Bar Association, Conference of Chief Justices, the White House, U.S. Chamber of Commerce, Military Officers Association of America and National Military Family Association all support comparable rules and have encouraged state licensing authorities to implement rules allowing admission without examination for attorney spouses of servicemembers.

One of the undersigned, Ms. Josie Beets, is representative of the problem often confronting attorney spouses of servicemembers. Her husband has served on active duty in the United States Army since 2008. She is licensed in Louisiana, the jurisdiction of her husband's first duty station with the military, where she practiced for three years. In 2012, Ms. Beets' husband was reassigned to Fort Campbell. Since her husband anticipated being reassigned for duty elsewhere within a couple of years, applying and going through the process for a Tennessee license was not time-efficient or cost-effective. This summer, Ms. Beets' servicemember spouse will again be reassigned, this time for military duty in Virginia, and she will be faced with the same predicament again before their next reassignment.

Adoption of this proposed rule is consistent with public policy recognizing the importance of reasonable accommodation to enable and support the ability of servicemembers to perform their military service. Adoption of the proposed rule is also a tangible way this Honorable Court and the Tennessee legal community can

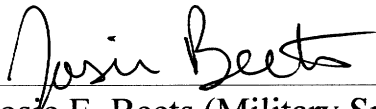
express its support for the military, their families, and women attorneys, who are by far the largest component of attorney spouses. This is an opportunity to embrace our reputation as the Volunteer State and the state that gave American women the right to vote.

3. Proposed Rule Change.

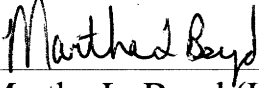
i) *Rule 7, Section 5.03.* Adding this provision would provide attorney spouses of servicemembers in the Uniformed Service the ability to apply for a temporary license to practice while in the state of Tennessee pursuant to military orders. It requires the applicant to have been admitted after examination in another state, possess the moral character and fitness required of all applicants, and be a member in good standing in each jurisdiction licensed. It provides for the timely termination of the license at either the end of a three-year period or upon specific events triggering expiration, such as permanent relocation of the servicemember or divorce. A copy of the amended Rules delineating the deletions, additions and changes, is attached hereto as "Exhibit A."

Wherefore, for the foregoing reasons, the undersigned attorneys respectfully request that this Honorable Court to enter an Order amending Tennessee Supreme Court Rule 7, as set forth herein.

Respectfully submitted,



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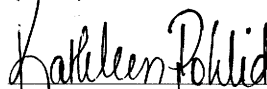
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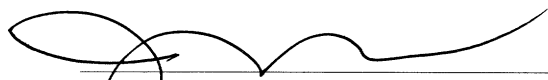
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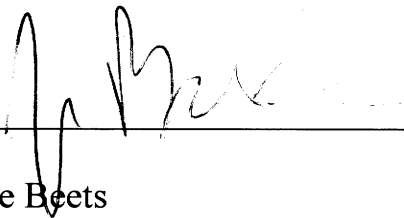
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CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of This Amendment to Petition to Amend Tennessee Supreme Court Rules 6, 7 and 8 (RPC 5.5) has been served upon the individuals and organizations identified in "Exhibit F" by regular U.S. Mail, postage prepaid first class mail within seven (7) days of filing with the Court.



Josie Beets

EXHIBIT A

Rule 7. Licensing of Attorneys.

.....

ARTICLE V. – Persons Admitted in Other Jurisdictions Seeking Waiver of Examination

.....

Section 5.03. Temporary Admission for Attorney Spouses of Servicemembers

(a) Qualifications. An applicant who is the spouse of an active duty servicemember of the United States Uniformed Services as defined by the United States Department of Defense may be temporarily admitted as an attorney of this State, without examination, provided that the applicant:

(i) has been admitted, after examination, as an attorney of another state, commonwealth, or territory of the United States with educational qualifications for admission to the bar equivalent to those of this State; and

(ii) possesses the moral character and fitness required of all applicants for admission in this State; and

(iii) has not failed the Tennessee bar examination; and

(iv) resides in Tennessee or Fort Campbell, Kentucky, due to the servicemember's military orders; and

(v) is at the time of application an active member of the bar in good standing in

at least one jurisdiction of the United States; and

(vi) is a member of the bar in good standing in every jurisdiction to which the applicant has been admitted to practice, or has resigned or been administratively revoked while in good standing from every jurisdiction without any pending or later disciplinary actions.

(b) Application for Temporary Admission. An application for temporary admission shall be made, without fee required, to the Board of Law Examiners, in accordance with its rules. Upon receipt of an application for temporary admission, the Board of Law Examiners shall expeditiously determine whether the applicant meets each of the requirements set forth in paragraph (a) of this Section, and present the application to the Clerk of the Supreme Court for appropriate disposition. In addition to the completed application, the applicant must submit:

(i) a completed character questionnaire;

(ii) a copy of the Applicant's Military Spouse Dependent Identification;

(iii) documentation evidencing a spousal relationship with the servicemember;

and

(iv) a copy of the servicemember's military orders to a military installation in Tennessee or Fort Campbell, Kentucky, or a letter from the servicemember's command verifying that the requirement in paragraph (a)(4) is met;

(v) Certificate(s) of Good Standing and of Disciplinary History(ies) to

demonstrate satisfaction of the requirements of (a)(6) of this rule;

(vi) all other documentation as required in the character application process by the Board of Law Examiners.

(c) Duration and Extension.

(i) A temporary license to practice law issued under this rule will be valid for three years and will terminate as set forth in paragraph (e) below. Holders of a temporary license have an affirmative duty to immediately notify the Board of Law Examiners within thirty (30) days upon occurrence of any event in paragraph (e)(5)-(8) which will cause the temporary license to expire.

(ii) Persons who hold a temporary license under this provision may apply, without additional fee, for a two-year extension to their license if they submit an application for extension verifying that they continue to meet all of the qualifications for a temporary license as set forth in paragraph (a) above.

Requests for extension must be submitted to the Board of Law Examiners at least one month prior to the expiration of the temporary license and must include a copy of the servicemember's military orders or a letter from the servicemember's command verifying that the requirement in paragraph (a)(4) is met. Requests for extension must be approved by the Board of Law Examiners and approved by the Supreme Court to be effective.

(d) Practice Requirements. During the duration of the temporary license, the

temporary attorney shall: (1) comply with the rules of the Supreme Court of the State of Tennessee; (2) comply with the registration requirements as required for all Tennessee licensed attorneys; and (3) make payment of annual assessments as required of all Tennessee licensed attorneys.

(e) Termination. The temporary license shall expire:

(i) upon the temporary attorney's failure to meet any licensing requirements applicable to all active attorneys possessing a license to practice law in this state;

or

(ii) upon the request of the temporary attorney; or

(iii) upon the issuance to the temporary attorney of a Tennessee license under Article III (by examination) or Article V (by comity admission) of these rules; or

(iv) upon receipt by the temporary attorney of a failing score on the Tennessee bar examination; or

(v) six months following the date of permanent relocation of the servicemember outside of Tennessee or Fort Campbell, Kentucky, except when such relocation is due to unaccompanied orders for a permanent change of station outside of Tennessee; or

(vi) six months following the date of termination of the temporary attorney's spousal relationship to the servicemember; or

(vii) if the temporary attorney ceases to reside in Tennessee or Fort Campbell,

six months following the date when the temporary attorney ceased to reside in Tennessee or Fort Campbell; or

(viii) six months following the date of the servicemember's death, separation or retirement from the United States Uniformed Services; or

(ix) one year following the date of the event of the servicemember's death, separation or retirement from the United States Uniformed Services, or divorce or marital separation from the servicemember, provided that during the first six months following the date of such event the temporary attorney applies to sit for the Tennessee bar examination.

EXHIBIT B

MILITARY SPOUSE RULE CHANGES & POLICIES AND THEIR IMPACT ON THE BAR

State	Rule/Policy	Date Adopted	Supervision Requirement	Years of Practice Requirement	Duration of License	Spouses Admitted Per Rule Jan. 2015
Idaho	<u>Rule 229</u>	April 2012	Yes	No	1 year (renewable)	1
Arizona	<u>Rule 38(i)</u>	Dec. 2012	Yes	No	1 year (renewable)	0
Texas	<u>Rule XXII</u>	Feb. 2013	No	No	Permanent	3
North Carolina	<u>Rule .0503</u>	March 2013	No	Yes ¹	Permanent	2
Illinois	<u>Rule 719</u>	July 2013	No	No	Ends conditionally ²	2
South Dakota	<u>Rule 13-10</u>	Sept. 2013	No	No	Permanent	0
Virginia	<u>Rule 1A:8</u>	May 2014	Yes	No	1 year (renewable)	2
Massachusetts	No formal rule	March 2014	No	Yes ³	Permanent	1
Colorado	<u>Rule 204.4</u>	June 13, 2014	No	No	Ends conditionally ⁴	2
New Jersey	<u>Rule 1:27-4</u>	July 22, 2014	No	No	2 years (renewable)	0
New York	No formal rule	Unknown	No	Yes ⁵	Permanent	1
Oklahoma	<u>Rule 2, Section 7</u>	Jan. 2015	No	No	Ends conditionally ⁶	1 pending

¹ Requires active engagement in the full-time practice of law for 4 out of 8 prior years.

² Illinois license shall terminate upon the following: the service member is no longer a member of the military; the military spouse attorney is no longer married to the service member; a change in the service member's military orders reflecting a permanent change of station to a military installation other than Illinois, except that if the service member has been assigned to an unaccompanied or remote assignment with no dependents authorized, the military spouse attorney may continue to practice pursuant to the provisions of this rule until the service member is assigned to a location with dependents authorized; or the lawyer is admitted to the practice of law under any other rule of the Court.

³ Massachusetts generally requires, for admission on motion, that the attorney be in practice for 5 out of the 7 prior years; however, the Massachusetts Board of Bar Examiners may support a waiver of this requirement on a case-by-case basis for qualified applicants that are military spouse attorneys (and may expedite the character review process). Telephone conversation with Marilyn Wellington, Executive Director, Massachusetts Board of Bar Examiners, Friday, May 23, 2014.

⁴ Colorado license shall terminate when: the service member is no longer a member of the military; military spouse attorney is no longer a spouse of the service member; (the service member receives a transfer outside Colorado, except that if the service member has been assigned to an unaccompanied or remote assignment (no dependents authorized), the military spouse attorney may continue to practice law until the service member is assigned to a location with dependents authorized; the military spouse is disciplinarily suspended or disbarred or placed on disability inactive status in any jurisdiction, court, or agency before which the attorney is admitted; or the military spouse is suspended in any jurisdiction for failure to pay child support or failure to cooperate in a disciplinary matter.

⁵ New York generally requires, for admission on motion, that the attorney practice for 5 out of the 7 prior years; however, the New York Board of Bar Examiners may support a waiver of this requirement on a case-by-case basis for qualified applicants that are military spouse attorneys. Telephone conversation with John McAlary, Executive Director, New York Board of Bar Examiners, Friday, August 1, 2014.

⁶ Oklahoma license shall terminate upon termination of the military status of either the dependent or the service member; or, in the event of a military transfer outside of Oklahoma, the right of such person to practice law in the Oklahoma shall terminate unless such person shall have been admitted to practice law in the state under some other rule.

EXHIBIT C

REPORT & PROPOSED RULE:

**REVISIONS TO TENNESSEE'S LICENSE REQUIREMENTS
IN SUPPORT OF MILITARY SPOUSE ATTORNEYS**

AUGUST 8, 2014



MILITARY SPOUSE JD NETWORK

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§ Licensed in Louisiana; Tennessee Co-Director, Military Spouse JD Network.

** Licensed in Texas (pending in Tennessee); Tennessee Co-Director, Military Spouse JD Network.

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ADDENDUM 1: PROPOSED TENNESSEE RULE

ADDENDUM 2: IDAHO STATE BAR RULE

ADDENDUM 3: ARIZONA RULE

ADDENDUM 4: TEXAS LICENSE PORTABILITY FOR MILITARY SPOUSES POLICY

ADDENDUM 5: NORTH CAROLINA RULE

ADDENDUM 6: ILLINOIS RULE

ADDENDUM 7: SOUTH DAKOTA RULE

ADDENDUM 8: VIRGINIA RULE

ADDENDUM 9: MASSACHUSETTS POLICY

ADDENDUM 10: COLORADO RULE

ADDENDUM 11: NEW JERSEY RULE

ADDENDUM 12: NEW YORK POLICY

Summary

This report (this “Report”) encourages the Tennessee Supreme Court to adopt Rule 5.04 as set forth in Addendum 1 (the “Proposed Rule”), proposed by the Military Spouse JD Network (“MSJDN”), a bar association for attorneys married to U.S. military servicemembers (“military spouse attorneys”).⁶ The rule provides for admission to the Tennessee bar of qualified military spouse attorneys who can establish that their servicemember is on military orders in the State of Tennessee or at Fort Campbell, Kentucky, and explicitly provides that military spouse attorneys will be subject to the same rules and regulations, including the rules of professional conduct, applicable to all other Tennessee-barred attorneys. The Proposed Rule provides an opportunity for Tennessee to demonstrate its support of military families while maintaining the high professional standards of the legal profession.

In July 2012, the Conference of Chief Justices passed a Resolution in support of military families.⁷ The Resolution urges bar admission authorities to participate in the development and implementation of rules permitting admission without examination for qualified attorneys who are dependents of servicemembers of the United States Uniformed Services. Recognizing that frequent geographic relocations are required of military families, admission without examination permits military spouses to continue to contribute to our profession and to support their families while their servicemembers are stationed across the country. Reducing licensing barriers in all states will improve the well-being of military families upon whose service our country’s defenses depend.

In February 2012, the American Bar Association (the “ABA”) passed a resolution urging states to adopt rules, regulations, and procedures that accommodate the unique needs of military spouse attorneys.⁸ First Lady Michelle Obama encouraged more states and professional associations to follow the ABA’s lead.⁹ At the same time, the Department of Defense (the “DoD”) issued a report highlighting the impact of state licensing requirements on the careers of military spouses and on military readiness.¹⁰

Eleven states have created new policies or passed favorable rule accommodations for military spouse attorneys.¹¹

- Eight states enacted rule changes through their state supreme courts.
 - *Idaho*: In January 2012, the Idaho Supreme Court approved the first rule providing for the admission of military spouse attorneys while they reside in Idaho on military orders.¹²

⁶ MSJDN advocates for initiatives that improve the lives of military families, including licensing accommodations for military spouses.

⁷ CONFERENCE OF CHIEF JUSTICES, *Resolution 15*, available at <http://ccj.ncsc.org/~media/Microsites/Files/CCJ/Resolutions/07252012-Encouraging-Adoption-of-Rules.ashx> (last visited July 31, 2014).

⁸ AMERICAN BAR ASSOCIATION HOUSE OF DELEGATES, *Resolution 108*, available at http://www.americanbar.org/content/dam/aba/administrative/house_of_delegates/resolutions/2012_hod_midyear_meeting_108.doc (last visited July 31, 2014).

⁹ *Remarks by the First Lady and Dr. Biden On Military Spouse Licensing*, available at <http://www.whitehouse.gov/the-press-office/2012/02/15/remarks-first-lady-and-dr-biden-military-spouse-licensing>; see also *Remarks by the First Lady and Dr. Biden Discussing Military Spouse Employment at National Governors Association Annual Meeting*, available at <http://www.whitehouse.gov/photos-and-video/video/2012/02/27/first-lady-michelle-obama-and-dr-jill-biden-speak-military-spouse-#transcript> (last visited Nov. 15, 2013).

¹⁰ DEPT. OF DEFENSE AND DEPT. OF THE TREASURY, *Supporting Our Military Families: Best Practices for Streamlining Occupational Licensing Across State Lines*, available at http://www.defense.gov/home/pdf/Occupational_Licensing_and_Military_Spouses_Report_vFINAL.PDF (last visited Nov. 15, 2013).

¹¹ MILITARY SPOUSE JD NETWORK STATE RULE CHANGE INITIATIVES, available at <http://www.msjdn.org/rule-change/> (last visited July 30, 2014).

¹² Press Release, MILITARY SPOUSE JD NETWORK, *First State Approves Military Spouse Admission*, available at <http://www.msjdn.org/2012/04/first-state-approves-military-spouse-attorney-admission/> (last visited Nov. 15, 2013).

- *Arizona*: Similarly, in December 2012, the Arizona Supreme Court approved a similar rule admitting military spouse attorneys to practice.¹³
- *North Carolina*: In April 2013, North Carolina modified its comity licensure requirements for military spouse attorneys who can prove that they reside in the state due to their spouses' military orders.¹⁴
- *Illinois*: In June 2013, Illinois became the fifth state to pass a rule allowing military spouse attorneys to obtain a license while in the state with their spouse on military orders.¹⁵
- *South Dakota*: In September 2013, the South Dakota Supreme Court approved a rule, proposed by the Governor, allowing military spouse attorneys to obtain licenses while they reside with their servicemembers in the state.¹⁶
- *Virginia*: In May 2014, Virginia passed its military spouse attorney rule.¹⁷
- *Colorado*: Colorado followed suit in June 2014; its rule will be effective September 1, 2014.¹⁸
- *New Jersey*: After hearing oral arguments on the issue, the New Jersey Supreme Court enacted its rule for military spouse attorneys in July 2014, to be effective September 1, 2014.¹⁹ (See Addenda 2 through 11, respectively, for the full text of each rule listed above).
- Three states enacted policies without a formal rule change so that consideration of military spouse applications could begin immediately. In February 2013, Texas was the first,²⁰ followed by Massachusetts²¹ and New York.²²
- Twelve other states currently considering similar rule accommodations, including: Alabama, Alaska, California, Delaware, Florida, Georgia, Indiana, Maryland, Ohio, Oklahoma, Oregon, and Utah.

¹³ Press Release, MILITARY SPOUSE JD NETWORK, *Arizona Supreme Court Recognizes Service of Military Spouse Attorneys*, available at <http://www.militaryspousejdnetwork.org/apps/blog/arizona-supreme-court-recognizes-service-of-military> (last visited Nov. 15, 2013).

¹⁴ Press Release, MILITARY SPOUSE JD NETWORK, *MSJDN Reform Efforts Succeed in Fourth State*, available at <http://www.msjudn.org/2013/04/msjudn-reform-efforts-succeed-in-fourth-state/> (last visited Nov. 15, 2013).

¹⁵ Press Release, MILITARY SPOUSE JD NETWORK, *Illinois Becomes the Fifth State to Support Military Spouses in the Legal Profession*, available at <http://www.msjudn.org/2013/06/illinois-becomes-fifth-state-to-support-military-spouses-in-the-legal-profession/> (last visited Nov. 15, 2013).

¹⁶ Press Release, MILITARY SPOUSE JD NETWORK, *South Dakota Becomes Sixth State to Adopt a Military Spouse Attorney Rule*, available at <http://www.msjudn.org/2013/09/south-dakota-becomes-sixth-state-to-adopt-a-military-spouse-attorney-rule/> (last visited Nov. 15, 2013).

¹⁷ Press Release, MILITARY SPOUSE JD NETWORK, *Virginia Adopts Military Spouse Rule, Joins Growing Number of States Supporting Military Spouse Attorneys*, available at <http://www.msjudn.org/2014/05/virginia-adopts-military-spouse-rule-joins-growing-number-of-states-supporting-military-spouse-attorneys/> (last visited May 26, 2014).

¹⁸ Press Release, MILITARY SPOUSE JD NETWORK, *Colorado Becomes Ninth State to Support Military Spouse Attorneys with a Licensing Accommodation*, available at <http://www.msjudn.org/2014/06/colorado-becomes-ninth-state-to-support-military-spouse-attorneys-with-a-licensing-accommodation/> (last visited July 29, 2014).

¹⁹ Press Release, MILITARY SPOUSE JD NETWORK, *New Military Spouse Rule Adopted in New Jersey*, available at <http://www.msjudn.org/2014/07/military-spouse-rule-adopted-in-new-jersey/> (last visited July 29, 2014).

²⁰ Press Release, MILITARY SPOUSE JD NETWORK, *Texas Becomes First State to Initiate Recognition to Attorney Military Spouses and Their Services*, available at <http://www.msjudn.org/2013/02/texas-becomes-first-state-to-initiate-recognition-of-attorney-military-spouses-and-their-service/> (last visited Nov. 15, 2013).

²¹ Massachusetts Board of Bar Examiners, *Instructions for Attorney Bar Applicants*, available at <http://www.mass.gov/courts/court-info/sjc/attorneys-bar-applicants/bbe/> (last visited May 26, 2014). In March 2014, the Massachusetts Board of Bar Examiners voluntarily enacted a military spouse attorney licensing policy. *Id.*

²² Press Release, MILITARY SPOUSE JD NETWORK, *New York State of Mind: 11th State Adopts Military Spouse Attorney Licensing Policy*, available at <http://www.msjudn.org/2014/08/newyorkpolicy/> (last visited Aug. 6, 2014). The New York Board of Law Examiners (BOLE) recently published a military spouse attorney licensing policy. The New York BOLE encourages military spouse attorneys to contact the Executive Director and seek a waiver of the strict requirements of Section 520.14 of the Rules of Court for admission on motion. *Id.*

Accommodating the unique needs of military spouse attorneys comes at little cost to the state but makes a meaningful difference in the financial and personal well-being of military families. While the number of military spouse attorneys may not be large,²³ approval of this Proposed Rule would send a message of support to the entire Tennessee military community.

Tennessee's Historic Support of the Military Community

The legal profession has a long history of ensuring that legal procedures do not unduly prejudice servicemembers and their families.²⁴ The Soldiers' and Sailors' Civil Relief Act of 1940²⁵ was amended in 1942 to add a section specifically extending certain protections to military dependents, including spouses, "to avoid situations in which dependents suffered as a result of the servicemember's period of service."²⁶ A number of amendments to the Servicemembers Civil Relief Act have increased the protections available to both servicemembers and their families. Tennessee has continued this tradition; in 2011, it passed legislation to ease licensing burdens on military spouses in professions where the state licensing body is governed by the state legislature.²⁷

The Tennessee legal community has steadfastly demonstrated its deep support for servicemembers and their families. In 2012, the Tennessee Bar Association's ("TBA") Access to Justice Committee launched "Hometown Support," a program to provide free legal help to servicemembers and their families with limited income facing legal problems in Tennessee.²⁸ The program, a collaborative effort among volunteer attorneys, the TBA, the Tennessee National Guard, and legal services offices statewide, evidences broad support for the Tennessee active duty community.

In 2012, the Tennessee Supreme Court, with the encouragement of the Tennessee legislature, authorized several state courts to serve justice-involved veterans.²⁹ These courts were awarded additional funds to operate in 2013, and continue to be a model for the rest of the state.³⁰ In 2013, the Tennessee Legislature voted to continue funding unemployment benefits for spouses of transferred military servicemembers, rendering Tennessee one of forty-four states to provide such protections for active duty military families.³¹

²³ The Military Spouse JD Network has identified over 1000 military spouse attorneys worldwide as of May 2014.

²⁴ "During the Civil War, Congress enacted legislation suspending any statute of limitations where the war worked to thwart the administration of justice. In World War I, the Soldiers' and Sailors' Civil Relief Act of 1918 directed trial courts to take whatever action equity required when servicemembers' rights were involved in a controversy." The Judge Advocate General's Legal Center & School, U.S. Army, JA 260, *servicemembers Civil Relief Act* at 1-1 (Mar. 2006) (citations omitted) (hereinafter "JAG SSCRA Report"), available at www.americanbar.org/content/dam/aba/migrated/legalservices/lamp/downloads/SCRAguide.authcheckdam.pdf (last visited Nov. 15, 2013).

²⁵ 54 Stat. 1178 (1940).

²⁶ JAG SSCRA Report at 4-1.

²⁷ Tennessee 107th General Assembly, *Public Chapter 230*, available at <http://state.tn.us/sos/acts/107/pub/pc0230.pdf> (last visited July 29, 2014).

²⁸ Journal News, *Hometown Support Provides Legal Help for Military*, available at <http://www.tba.org/journal/news-7> (last visited March 30, 2014).

²⁹ Press Release, Tennessee Supreme Court, *Veterans Court Comes to Clarksville*, available at <https://www.tncourts.gov/news/2012/07/18/veterans-court-comes-clarksville>, (last visited March 30, 2014); Press Release, TN Supreme Court, *Shelby County Forms Veterans Court*, available at <https://www.tncourts.gov/news/2012/07/30/shelby-county-forms-veterans-court> (last visited March 30, 2014).

³⁰ Press Release, Tennessee Supreme Court, *Shelby, Montgomery Veterans Courts Receive Boost With Commission Funding*, available at <http://www.tncourts.gov/press/2013/04/08/shelby-montgomery-veterans-courts-receive-boost-commission-funding> (last visited March 30, 2014).

³¹ Press Release, Tennessee Labor and Workforce Development, *Legislature renews funding of unemployment benefits for spouses of transferred military service members*, available at <https://news.tn.gov/node/10607> (last visited March 30, 2014)

The Military Spouse J.D. Network, through this Report, calls on Tennessee to continue its tradition of supporting the military community by adopting the Proposed Rule to recognize the obstacles faced by those military spouses who are members of the legal community. The legal community should recognize the sacrifices of military families within its own ranks by eliminating the licensing restrictions burdening military spouses.

Unique Challenges Faced by Military Spouse Attorneys

The unemployment rate for military spouses is three times as high as their civilian counterparts.³² High rates of unemployment and underemployment of military spouses impact the entire family and are primarily the result of frequent geographic relocations of military families.³³ Military spouse licensing and employment in all professions are a DoD priority because they impact retention, readiness, and family well-being.

Military spouses are ten times more likely to have moved across state lines in the last year compared to their civilian counterparts.³⁴ A typical military family moves every two to three years.³⁵ Research indicates that “the feature of military life that most negatively affects military wives’ careers is being asked to move often and far.”³⁶ For servicemembers, failure to comply with transfer orders may be chargeable as a federal offense.³⁷ Although families may decide not to move with the servicemembers, the resulting separations only compound the hardship on families already subject to lengthy separations due to training and overseas deployments and require the family to support the expenses of two separate households. According to a 2007 report by the RAND Corporation, “unlike civilian couples, who can make relocation decisions considering advantages and disadvantages for all family members, military couples must move according to the timing and placement of the servicemembers’ new assignment.”³⁸

Frequent geographic dislocations have a particularly negative effect on military spouse attorneys, for whom state licensing requirements create enormous barriers to the maintenance of a continuous professional career.³⁹ A 2013 survey of MSJDN members found that even though eighty percent hold an active law license, only thirty-four percent are working full time in a job requiring a law license. Forty-one percent have taken two or more bar examinations. Four out of five members reported that their

³² Nelson Liam, *et al.*, RAND CORPORATION, *Measuring Underemployment Among Military Spouses*. (2010) xvi., available at http://www.rand.org/content/dam/rand/pubs/monographs/2010/RAND_MG918.pdf (last visited Nov. 15, 2013).

³³ Margaret Harrell *et al.*, RAND CORPORATION, *Working Around the Military: Challenges to Military Spouse Employment and Education* (2004), at 40, available at http://www.rand.org/content/dam/rand/pubs/monographs/2004/RAND_MG196.pdf (last visited July 30, 2014) (a husband’s military service is “the major explanatory factor” for the disparity between military and civilian wife unemployment).

³⁴ DEPT. OF DEFENSE AND DEPT. OF THE TREASURY, *Supporting Our Military Families: Best Practices for Streamlining Occupational Licensing Across State Lines*, at 3, available at http://www.defense.gov/home/pdf/Occupational_Licensing_and_Military_Spouses_Report_vFINAL.PDF (last visited Nov 15, 2012).

³⁵ David R. Segal *et al.*, Population Reference Bureau and Hopkins Population Center, *The Effects of Military Deployment on Family Health*, 10, available at <http://www.prb.org/pdf11/segal-military-families-presentation.pdf> (last visited Nov. 15, 2013).

³⁶ Margaret Harrell *et al.*, RAND CORPORATION, *Working Around the Military: Challenges to Military Spouse Employment and Education*, at 40 (2004), available at http://www.rand.org/content/dam/rand/pubs/monographs/2004/RAND_MG196.pdf (“RAND 2004”) (last visited Nov. 15, 2013).

³⁷ UCMJ, 10 U.S.C. § 885.

³⁸ Nelson Liam *et al.*, RAND CORPORATION, “*Working Around the Military*” Revisited: *Spouse Employment in the 2000 Census Data*, at 4, available at http://www.rand.org/pubs/monographs/2007/RAND_MG566.pdf (last visited Nov. 15, 2013).

³⁹ The White House acknowledged the effects of these barriers in a wide variety of professions, noting that “[t]he lack of broad-based reciprocity among the states to recognize professional licenses or certificates held by military spouses creates a significant barrier to employment.” WHITE HOUSE, *Strengthening America’s Military Families: Meeting America’s Commitment*, at 16 (Jan. 2011), available at http://www.defense.gov/home/features/2011/0111_initiative/strengthening_our_military_january_2011.pdf (last visited May 3, 2013).

spouse's military service has negatively impacted their legal career, and half have lived apart from their spouse in order to maintain their legal career.⁴⁰

Anecdotal evidence of these difficulties abound.

- One such example is Carly Summers-O'Rourke, who, upon graduating from the University of Tennessee College of Law in December 2012, took the Tennessee bar, only to be told that her Army husband was likely to be stationed in Georgia. Right before she sat for the Georgia bar examination, she and her husband received new orders to Oklahoma. Several thousand dollars later, she had two state bar licenses and yet still was precluded from practicing in the jurisdiction in which she was located.
- Likewise, Natalie Teemer has made three moves in three years with her Army husband since being sworn in to practice in Tennessee. Now living in Kansas, she commutes over two hours each way to do document review in an attempt to maintain her legal career; this summer, she will add Kansas to her list of bar examinations she has taken.
- Eleanor Magers Vuono, former Army JAG and now a military spouse, has been licensed and practiced in three jurisdictions. After relocating to a fourth jurisdiction, the timing of the bar examination and the constraints of her husband's military assignment prevented her from being hired as an attorney or even serving in a *pro bono* capacity despite her practice experience.⁴¹
- Reda Hicks, an Army spouse, has been licensed in four jurisdictions in her seven years of practice, taken and passed bar examinations in two of those jurisdictions, and lived remotely from her Army pilot husband for the past four years due to licensing constraints.

If the states to which their spouses were transferred had military spouse admission rules in place, these qualified women would not have had to choose between living with their spouses and practicing law during the tenure of their husbands' service our country.

Because of geographic insecurity and licensing restrictions, many military spouses do not pursue the legal profession despite having attended law school and earned a *juris doctorate*. Likewise, military spouses attorneys who are currently practicing law forego traditional legal careers in order to support the servicemember, or, alternatively, the servicemember chooses to leave the military prematurely, causing the military to lose extensively trained, highly skilled, and talented servicemembers.

Recently, Congress specifically recognized and ameliorated some of the hardships endured by military spouses based solely on their marital status and their spouses' profession through the Military Spouses Residency Relief Act.⁴² The Military Spouses Residency Relief Act amends the Servicemembers Civil Relief Act to provide that a spouse shall neither lose nor acquire domicile or residence in a state when the spouse is present in the state solely to be with the servicemember in compliance with the servicemember's military orders. This change is part of the national initiative to reduce the burden on military families as they move from state to state.

⁴⁰ See MSJDN 2013 Member Survey Report of Findings, available at <http://www.msjdn.org/wp-content/uploads/2014/02/MSJDN-Survey-Report.pdf> (last visited May 27, 2014).

⁴¹ See Eleanor Magers Vuono, *Lower the Licensing Barriers So We May Serve*, UVA Lawyer, Spring 2012 available at <http://www.law.virginia.edu/html/alumni/uvalawyer/spr12/opinion.htm> (last visited Nov. 15, 2013).

⁴² Pub. L. No. 111-97, 123 Stat. 3007.

The White House, through its Joining Forces initiative, is leading a coordinated and comprehensive federal approach to supporting military families, outlined in the 2011 White House initiative, “Strengthening Our Military Families: Meeting America’s Commitment,” which states in relevant part:

*The lack of broad-based reciprocity among the states to recognize professional licenses or certificates held by military spouses creates a significant barrier to employment. Additionally, frequent moves result in military spouses incurring high costs for recertification and increased delays before they are able to work due to state licensing requirements in fields such as teaching and medical services.*⁴³

The White House also highlighted the efforts of MSJDN to address licensing issues in the legal profession.⁴⁴

The ability to maintain or transfer a professional license when moving from state to state has a direct impact on the ability of the military spouse to find employment. The Department of Defense, through its Military Community and Family Policy (“MCFP”) office, has addressed the licensing issue through state legislation for those career fields that are governed by state regulatory agencies,⁴⁵ including nearly all medical professions, real estate brokerage, social workers, and other professions. However, the practice of law is not governed by a state regulatory agency; therefore, the legislation for which the MCFP has advocated does not include the practice of law. The Proposed Rule identifies specific ways the legal profession itself can eliminate professional licensing barriers for military spouse attorneys.

Admission on motion for military spouse attorneys benefits both the legal community and the United States Uniformed Services. MSJDN’s Proposed Rule supports the essential national goal of military readiness because spouse employment opportunities have a significant impact on the ability of the U.S. military to recruit and retain qualified servicemembers.⁴⁶ This impact has particular salience in the context of military spouse attorneys, whose relatively high earnings potential creates an even higher incentive for servicemembers to leave the military in favor of their spouses’ careers.

The Current Tennessee Rule

Currently, an attorney who moves to Tennessee due to a servicemember spouse’s military orders and wishes to continue practicing law faces a difficult situation. Although the rules governing attorney licensure in the state do provide options for continuing practice, none of these options address the challenging realities faced by military spouse attorneys.

Admission upon motion without examination

Tennessee Supreme Court Rule Seven, Section Five, requires that an applicant for admission without examination must show that she has been “actively engaged in the practice of law” for five of the past seven years.⁴⁷ Military spouse attorneys have trouble meeting this requirement when the servicemember has been assigned overseas, is recently admitted, or has been unable to find legal work at a prior duty

⁴³ WHITE HOUSE, *supra* note 24, www.defense.gov/home/features/2011/0111_initiative/strengthening_our_military_january_2011.pdf.

⁴⁴ Posting of Brad Cooper to White House Blog, Military Spouse Attorneys Answer the Joining Forces Challenge, <http://www.whitehouse.gov/blog/2012/06/14/military-spouse-attorneys-answer-joining-forces-challenge> (Nov. 21, 2013, 11:22 EST).

⁴⁵ Lisa Daniel, *Military Spouses Get Help with Professional Licenses*, American Forces Press Service, June 13, 2011, available at www.defense.gov/news/newsarticle.aspx?id=64285. (last visited Nov. 15, 2013).

⁴⁶ See Harrell, *supra* note 22, at xvii.

⁴⁷ Tennessee Supreme Court Rules, Rule 7, Section 5.

station in a remote location. Additionally, under the current rule, the Tennessee Board of Law Examiners requires three letters of recommendation from attorneys or judges.⁴⁸ Unfortunately, frequent relocations mean that many military spouse attorneys will have substantial gaps in licensure and practice that make it difficult for them to accrue the required years of “active” practice or letters of recommendation from attorneys or judges.

Tennessee Supreme Court Rule Seven, Section Ten, allows an incoming military spouse attorney to register as In-House Counsel provided the attorney’s full-time employment is as “a lawyer by an organization, the business of which is lawful and consists of activities other than the practice of law or the provision of legal services.”⁴⁹ Unfortunately, once again, the geographic insecurity, geographic location of military installations, and employment barriers created by military life make it difficult for military spouse attorneys to obtain employment in these roles.

Admission by examination

Tennessee Supreme Court Rule Seven, Section 5, requires that attorneys not eligible for admission on motion take the bar examination and provide, at their own expense, a report by the National Conference of Bar Examiners.⁵⁰ Bar examinations are offered only twice per year and applications must be submitted three months prior to the date of examination in Tennessee.⁵¹ Military spouse attorneys often do not know where they will be stationed more than a few months in advance, so by the time the attorney learns of an impending move, the application deadline for the next examination likely will have passed. Even if the military spouse is able to meet the deadlines, the application process requires the military spouse attorney to purchase preparation materials, study and sit for a bar examination, wait months for the results, proceed through the swearing-in process, and only then seek employment as an attorney. Thus, even assuming substantial notice of a military reassignment, each relocation that requires the military spouse attorney to take a bar examination to practice will result in a minimum of six to ten months of unemployment for a military spouse attorney⁵² occurring, on average, every two to three years (each time the servicemember is reassigned). As a result, these periods of unemployment cascade into difficulties meeting the practice requirements imposed by most states as a condition of admission on motion.

In short, given the frequency of relocations, a military spouse attorney seeking a Tennessee license may spend thousands of dollars on the bar examination process⁵³ and receive a license to practice only to have a year or two left in the state with which to use that license. This not only minimizes the opportunity to seek paid practice experience in Tennessee, but it greatly lessens chance of practicing in the next jurisdiction to which the servicemember is reassigned because of state time-in-practice requirements and the necessity of paying and preparing for another bar examination and character and fitness review.

⁴⁸ See, e.g. Application for Admission to Practice Law in Tennessee Supplements – Comity, <http://www.state.tn.us/lawexaminers/docs/TN%20Supplement%20Comity%20Synergy.pdf> (last visited March 30, 2014).

⁴⁹ Tennessee Supreme Court Rules, Rule 7, Section 10.

⁵⁰ Tennessee Supreme Court Rules, Rule 7 Section 6.03(b).

⁵¹ See, e.g., The Tennessee Board of Law Examiners Bar Examination Schedule, <http://www.state.tn.us/lawexaminers/feeSched.htm>. (last visited June 5, 2014)

⁵² Assuming four to six months to apply and study for the examination, then two to four months to receive results and get sworn in.

⁵³ The exam itself costs \$450 for a first time Tennessee applicant, plus \$375 for the NCBE (not including the various fees required to gather the documentation necessary for the application, laptop fee, late fees if military orders are received past the deadline, etc.), see Tennessee Board of Law Examiners Fee Schedule, <http://www.state.tn.us/lawexaminers/docs/Fee%20Schedule%20restated%20and%20posted.pdf>, (last visited July 30, 2014), and exam preparation classes through BarBri cost an additional \$3,125, see BarBri Website, at <http://www.barbri.com> (last visited July 30, 2014).

Thus, because Tennessee offers no options addressing these challenges unique to the military lifestyle, a military spouse attorney must choose among four alternatives if her spouse is stationed in Tennessee, even if she is already admitted elsewhere: (1) spend thousands of dollars and delay employment for many months to sit for the Tennessee Bar Examination; (2) severely limit her job search to non-legal or in-house positions not requiring a Tennessee license; (3) abandon the practice of law (temporarily or, as often happens after multiple military relocations to states without accommodations, permanently); or (4) increase the already lengthy family separations by staying behind in a state where the attorney is licensed to practice, forcing the family to maintain the expenses of two households.

Tennessee Proposed Rule

The Proposed Rule seeks to accommodate military spouse attorneys while supporting their spouses' military service. It achieves this purpose by modifying the requirements of licensure for military spouse attorneys who can establish that their servicemember is on military orders in the State of Tennessee or at Fort Campbell, Kentucky. Under the Proposed Rule:

1. Qualified military spouse attorneys would be full members of the Tennessee bar and subject to the same requirements as other attorneys regarding ethics, continuing legal education, and licensing fees.
2. Military spouses would only qualify for admission if they
 - a. have been admitted by bar examination in at least one other jurisdiction,
 - b. hold a degree from an ABA-approved law school,
 - c. submit a passing score on the MPRE,
 - d. are members in good standing in all jurisdictions in which they have been admitted,
 - e. are subject to no pending disciplinary matters in any jurisdiction, and
 - f. possess the character and fitness requirements necessary to practice law in Tennessee.

Tennessee is a unique jurisdiction since there is a major military installation that straddles the Tennessee/Kentucky border. Since the Post Office for Fort Campbell is located on the Kentucky side, the official address for the post is in Kentucky, despite the fact that *over eighty percent of active duty Soldiers stationed at Fort Campbell, Kentucky, live in Clarksville, Tennessee.*⁵⁴ Many military spouse attorneys living in Tennessee could be deemed ineligible if the Proposed Rule did not include Fort Campbell as their servicemember spouses technically have orders for Kentucky, not Tennessee. Therefore, we have crafted a rule that specifically addresses the situation in which a military spouse lives in Tennessee while her servicemember has orders to Fort Campbell.

In addition to the obvious benefits for military families, the Proposed Rule allows the Tennessee legal community to benefit from the diversity of experience and skills offered by military spouse attorneys. These attorneys have a wide variety of legal backgrounds, but their experience as military spouses means that they possess an ability to adapt to rapidly changing circumstances and learn quickly in new environments—all qualities that Tennessee should embrace in its attorneys. In addition, military spouse attorneys are in an ideal position to act as ambassadors from Tennessee's legal community to its military community because they are enthusiastic about using their legal skills to help other military families.⁵⁵

⁵⁴ City of Clarksville: About Clarksville, available at <http://www.cityofclarksville.com/index.aspx?page=181> (last visited March 30, 2014).

⁵⁵ See MSJDN 2013 Member Survey Report of Findings, available at <http://www.msjdn.org/wp-content/uploads/2014/02/MSJDN-Survey-Report.pdf> (last visited May 27, 2014).

Conclusion

Difficulties with licensure requirements are hardly the only challenges that military spouse attorneys face in their attempts to maintain career continuity. Finding professional employment can be extremely difficult given the uncertainty surrounding the length of time the family will be stationed in a given state, the patchwork of prior positions, and gaps in employment. Military spouse attorneys face the additional challenge of finding themselves in new locales where they likely have no personal or professional contacts and must build their networks from scratch in very short period of time. Tennessee can and should ameliorate these obstacles to practice for qualified military spouse attorneys by enacting the Proposed Rule.

January 28, 2015

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Re: Proposed Rule Change for Licensing of
Military Spouse Attorneys

Dear Members of the Board of Law Examiners:

We, the undersigned 42 attorneys, are writing to you as members of the Tennessee Bar and as veterans of the armed forces. The families of Servicemembers often sacrifice as much, if not more, than their family members in uniform. Military families are required to move from state to state, often every two or three years. As you can imagine, this makes it very difficult for spouses who hold law degrees to practice their chosen profession. These spouses have a great deal to offer the bar and to our country. We urge you to adopt the proposed rule submitted by Ms. Josie Beets on behalf of the Military Spouse's JD Network.

Very truly yours,



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Re: The Lawyers' Association for Women, Marion Griffin Chapter Recommendation and Endorsement of Proposed Rule Change Regarding Licensing of Military Spouse Attorneys Pending Before the Tennessee Board of Law Examiners

Dear Members of the Tennessee Board of Law Examiners:

The Lawyers' Association for Women, Marion Griffin Chapter strongly recommends and endorses the proposed rule for Temporary Admission of a Military Spouse currently pending for consideration by the Board.

Military spouse attorneys face significant barriers and disadvantages when their servicemember spouse is assigned for duty in Tennessee. This proposed rule strikes a careful balance, providing a temporary admission procedure to enable military spouse attorneys to continue their careers with minimal disruption to their families while maintaining the high standards of the legal community within our state. LAW urges the Board to adopt and implement the proposed rule as expeditiously as possible.

Since our Chapter was first founded in 1981, our members have been committed to promoting and ensuring the efficient administration of justice and the constant improvement of the law, especially as it relates to women. We are mindful that the demands of military service today have changed and that many spouses have their own careers upon which the family depends.

Women make up 95 percent of military spouse attorneys and while 80 percent maintain an active law license, only 34 percent work full time in a job requiring a license.¹ Four out of five military spouse attorneys also report their spouse's military service has negatively impacted their legal career. Military spouse attorneys face a potential income loss of \$33,745 per year compared with their civilian attorney counterparts.² The inability to maintain a career due to changes in duty stations across state lines can place stress on the family, stress already magnified by frequent separations for duty and lengthy combat deployments. A spouse's ability to maintain a career can be a critical factor in a servicemember's determination as to whether to continue service in the military.

Adoption of the proposed rule is one way the Tennessee legal community can ease the stress faced by military families. Our legal community will become stronger by making this temporary accommodation, which has received support from the American Bar Association, the Conference of Chief Justices, the Federal Bar Association, and the U.S. Chamber of Commerce. In unanimously endorsing this rule, the Board of Directors of the Lawyers' Association for Women shows its support for military spouse attorneys and their families.

Sincerely,



Laura B. Baker
President

cc:

Justice.Cornelia.Clark@tncourts.gov
Honorable Cornelia A. Clark
Tennessee Supreme Court
Supreme Court Building
401 Seventh Avenue North, Suite 318
Nashville, TN 37219-1407

¹ Military Spouse JD Network, *2013 Member Survey Report of Findings* (January 2014), available at <http://www.msjudn.org/wp-content/uploads/2014/02/MSJDN-Survey-Report.pdf>.

² Military Officers Association of America & Institute for Veterans and Military Families at Syracuse University, *Military Spouse Employment Report* (February 2014) available at <http://vets.syr.edu/research/research-highlights/milspouse-survey/>.



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Barbara M. Zoccola
United States Attorney's Office
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Memphis, TN 38103-1898

Re: Memphis Bar Association Recommendation and
Endorsement of Proposed Rule Change Regarding
Licensing of Military Spouse Attorneys Pending Before
the Tennessee Board of Law Examiners

Dear Members of the Tennessee Board of Law Examiners:

On February 26, 2015 the Memphis Bar Association Board of Directors adopted a resolution recommending and endorsing the proposed rule for temporary admission of a military spouse currently pending for consideration by the Board. Enclosed is a copy of the approved resolution.

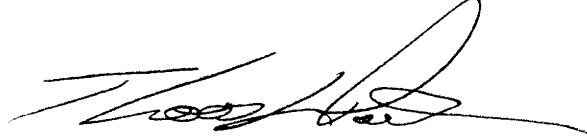
The MBA urges the Board to proceed with the favorable consideration of the proposed temporary admission rule as expeditiously as possible.

Tennessee Board of Law Examiners
March 4, 2015
Page 2

Thank you very much for considering the views of the leadership of our association.

Respectfully,

MEMPHIS BAR ASSOCIATION

A handwritten signature in black ink, appearing to read 'Thomas L. Parker', with a long horizontal flourish extending to the right.

Thomas L. Parker, President

A handwritten signature in black ink, appearing to read 'David J. Harris', with a large loop at the beginning and a horizontal flourish at the end.

David J. Harris, Board Member

RESOLUTION IN SUPPORT OF PROPOSED RULE
CHANGE FOR LICENSING OF MILITARY SPOUSE ATTORNEYS

Be it resolved that the Memphis Bar Association Board of Directors hereby adopts this resolution in support of the proposed rule change for the temporary licensing of attorney spouses of military servicemembers currently pending before the Tennessee Board of Law Examiners:

The Memphis Bar Association recommends and endorses the proposed rule for the Temporary Admission of a Military Spouse currently pending for consideration by the Board of Law Examiners.

Military spouse attorneys face significant barriers and disadvantages when their servicemember is assigned for duty in Tennessee. This rule strikes a careful balance providing a temporary admission procedure to enable spouses to continue their careers with minimal disruption to their military families while maintaining the high standards of the legal community within our state. The MBA urges the Board to adopt and implement the proposed rule as expeditiously as possible.

Adoption of the proposed rule is one way the Tennessee legal community can ease the stress military families face. Our legal community will become stronger by making this temporary accommodation, which has received support from the American Bar Association, the Conference of Chief Justices, the Federal Bar Association, and the U.S. Chamber of Commerce. In adopting this rule, the Board will show its support for servicemembers, sworn to protect and defend the Constitution of our freedoms, and their families.

Adopted: February 26, 2015



Thomas L. Parker, President

RESOLUTION IN SUPPORT OF PROPOSED RULE
CHANGE FOR LICENSING OF MILITARY SPOUSE ATTORNEYS

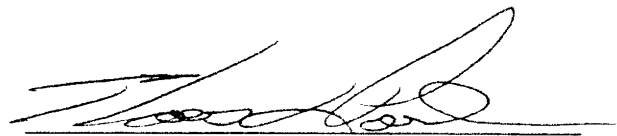
Be it resolved that the Memphis Bar Association Board of Directors hereby adopts this resolution in support of the proposed rule change for the temporary licensing of attorney spouses of military servicemembers currently pending before the Tennessee Board of Law Examiners:

The Memphis Bar Association recommends and endorses the proposed rule for the Temporary Admission of a Military Spouse currently pending for consideration by the Board of Law Examiners.

Military spouse attorneys face significant barriers and disadvantages when their servicemember is assigned for duty in Tennessee. This rule strikes a careful balance providing a temporary admission procedure to enable spouses to continue their careers with minimal disruption to their military families while maintaining the high standards of the legal community within our state. The MBA urges the Board to adopt and implement the proposed rule as expeditiously as possible.

Adoption of the proposed rule is one way the Tennessee legal community can ease the stress military families face. Our legal community will become stronger by making this temporary accommodation, which has received support from the American Bar Association, the Conference of Chief Justices, the Federal Bar Association, and the U.S. Chamber of Commerce. In adopting this rule, the Board will show its support for servicemembers, sworn to protect and defend the Constitution of our freedoms, and their families.

Adopted: February 26, 2015



Thomas L. Parker, President



Nashville Bar Association

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March 16, 2015

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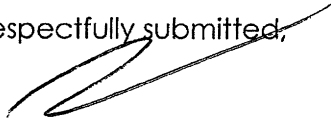
**RE: THE NASHVILLE BAR ASSOCIATION'S RECOMMENDATION AND
ENDORSEMENT OF A PROPOSED RULE CHANGE REGARDING
LICENSING OF MILITARY SPOUSE ATTORNEYS PENDING BEFORE THE
TENNESSEE BOARD OF LAW EXAMINERS**

Dear Members of the Tennessee Board of Law Examiners:

The National Bar Association supports a Rule that would allow military spouses not admitted in Tennessee to be admitted to practice on a temporary and provisional license, without commenting on any particular rule language at this time.

MEMBERS OF THE TENNESSEE BOARD OF LAW EXAMINERS
MARCH 16, 2015
PAGE 2

Respectfully submitted,



Edward D. Lanquist, Jr.
President

EDL/jb

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March 31, 2015

VIA EMAIL

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Hon. Cornelia A. Clark
c/o Lisa Perlen, Esq.
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Nashville, TN 37219-2204

Re: Knoxville Support for Attorney Spouses of Servicemembers

Dear Members of the Board of Law Examiners:

We, the undersigned attorneys, are writing to you as members of the Knoxville Bar Association and as veterans of the armed forces. The families of Servicemembers often sacrifice as much, if not more, than their family members in uniform. Military families are required to move from state to state, often every two or three years. As you can imagine, this makes it very difficult for spouses who hold law degrees to practice their chosen profession. These spouses have a great deal to offer the bar and to our country. We urge you to adopt the proposed rule submitted by Ms. Josie Beets on behalf of the Military Spouse's JD Network.

Sincerely,

A handwritten signature in black ink, appearing to read 'Michael J. King'.

Michael J. King, Captain, USAF
1992-1996

MJK:af

cc: Josie Beets (via email)
Meghan Morgan, Esq. (via email)

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Nashville Veterans Supporting the MSJD Network Proposal

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4. James F. Blackstock
5. Joseph M. Boyd Jr.
6. Martha L. Boyd
7. Hon. Robert S. Brandt*
8. W. D. (David) Broemel
9. Hon. Joe B. Brown*
10. Robert N. Buchanan III
11. Jack Byrd
12. William L. Campbell Jr
13. Brett R. Carter
14. John P. Cauley
15. Prof. Donald (Don) Cochran
16. Erin Coleman
17. Hon. Lew Conner*
18. C. Hayes Cooney
19. Kevin M. Doherty
20. James M. Doran Jr.
21. Hon. Frank F. Drowota*
22. Hon. Daniel B. Eisenstein*
23. Kenneth P. (Pete) Ezzell Jr.
24. Michael D. Galligan
25. John E. Gillmor
26. Frank Grace Jr.
27. Hon. Hamilton V. (Kip) Gayden*
28. James C. Gooch
29. Charles K. Grant
30. John A. Gupton III
31. James A. Haltom

32. Lawrence H. Hart
33. H. Wynne James
34. Chanelle A. Johnson
35. Victor S. (Torry) Johnson
36. Richard H. (Dick) Knight Jr.
37. Randall L. (Randy) Kinnard
38. Tracey A. Kinslow
39. John D. Kitch
40. Hon. Walter C. Kurtz*
41. Rebecca Lyford
42. James E. Mackler
43. Joseph L. (Jack) May
44. Alan D. Mazer
45. Joe Napiltonia
46. Everett Scott Neely
47. Prof. Michael A. Newton
48. Hon. Seth W. Norman*
49. William L. (Bill) Norton III
50. Hon. George C Paine II*
51. Robert A. Peal
52. Kathleen G. (Kathy) Pohlid
53. Fritz Richter III
54. John S. Seehorn
55. Hon. Kevin H. Sharp*
56. Keith B. Simmons
57. Bradford Telfeyan
58. Bob F. Thompson
59. Clark H. Tidwell
60. Robert D. (Bob) Tuke
61. Warren H. Wild Jr.
62. Hon. Thomas A. Wiseman*
63. Hon. Randall Wyatt*
64. Vincent P. Wyatt

Knoxville Veterans Supporting the MSJD Network Proposal

65. Darryl G. Lowe
66. John A. Lucas
67. Fred Lewis
68. Nick H. McCall
69. Jeff Glaspie
70. Sam W. Rutherford
71. Jonathan D. Reed
72. Robert A. Cole
73. David D. Noel
74. Richard T. Scrugham, Jr.
75. Will Skelton
76. Dudley W. Taylor
77. Hon. Charles D. Susano, Jr.*
78. Arthur G. Seymor, Jr.
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95. Thomas E. Plank

96. David M. Sanders
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99. Peter J. Alliman
100. Douglas L. Dunn
101. Carolyn Mambo
102. Robert A. Crawford
103. James H. London
104. Michael S. Shipwash
105. Roman Reese
106. Steven B. Johnson
107. David S. Rexrode
108. G. Turner Howard, III
109. Eddy R. Smith

* Indicates an active or retired state or federal judge.

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Name	Title	Firm	Address One	Address Two	City	State	Zip
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